بسم الله الرحمن الرحيم

﴿كُتِبَ عَلَيْكُمْ إِذَا حَضَرَ أَحَدَكُمُ ٱلْمَوْتُ، إِن تَرَكَ خَيْرًا ٱلْوَصِيَّةُ لِلْوَالِدَيْنِ وَٱلْأَقْرَبِينَ بِٱلْمَعْرُوفِ، حَقًّا عَلَى ٱلْمُتَّقِينَ ۝﴾

البقرة ١٨٠

«It is ordained for you, when death approaches any of you and he is leaving wealth, that he makes fair bequests in favor of the parents and near relatives — a duty upon those who have taqwā.»

[*Al-Baqarah* 2:180]

الرِّحْلَةُ المَحْتُومَة – الجُزْءُ الثاني

THE INEVITABLE JOURNEY – PART 2

ٱلوَصِيَّةُ وَٱلعَهْدُ ٱلشَّرعِيُّ

THE FINAL BEQUEST:
THE *ISLĀMIC* WILL & TESTAMENT

BY

مُحَمَّد ٱلجِبَالي

MUḤAMMAD AL-JIBĀLĪ

مَنْشُورَاتُ ٱلْكِتَابِ وَٱلسُّنَّةِ

AL-KITAAB & AS-SUNNAH PUBLISHING

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PRELUDE

Opening Sermon

إِنَّ ٱلْحَمْدَ لِلَّـهِ، نَحْمَدُهُ ونَسْتَعِينُهُ وَنَسْتَغْفِرُهُ،
وَنَعُوذُ بِاللَّـهِ مِنْ شُرُورِ أَنْفُسِنَا وَمِنْ سَيِّئَاتِ أَعْمَالِنَا.
مَنْ يَهْدِهِ ٱللَّهُ فَلاَ مُضِلَّ لَهُ، وَمَنْ يُضْلِلْ فَلاَ هَادِيَ لَهُ.

Al-ḥamdu lillāh. Indeed, all praise is due to Allāh. We praise Him and seek His help and forgiveness. We seek refuge with Allāh from our souls' evils and our wrong doings. He whom Allāh guides, no one can misguide; and he whom He misguides, no one can guide.

وَأَشْهَدُ أَنْ لاَ إِلَـهَ إِلاَّ ٱللَّهُ، وَحْدَهُ لاَ شَرِيكَ لَهُ.
وَأَشْهَدُ أَنَّ مُحَمَّداً عَبْدُهُ وَرَسُولُهُ.

I bear witness that there is no (true) god except Allāh — alone without any partners. And I bear witness that Muḥammad (ﷺ) is His *'abd* (servant) and messenger. [1]

﴿يَا أَيُّهَا ٱلَّذِينَ آمَنُوا ٱتَّقُوا ٱللَّهَ حَقَّ تُقَاتِهِ،
وَلاَ تَمُوتُنَّ إِلاَّ وَأَنْتُمْ مُسْلِمُونَ۝﴾ آل عمران ١٠٢

«O you who believe! Revere Allāh the right

1 The above two paragraphs, together with the following three portions of *Qur'ān*, are called *Khuṭbat ul-Ḥājah* (the Sermon of Need). Allāh's Messenger (ﷺ) often started his speeches with this sermon, and he was keen to teach it to his companions. The *ḥadīths* in this regard are recorded by Muslim, Abū Dāwūd, an-Nasā'ī, and others, and are narrated by Ibn Mas'ūd, Ibn 'Abbās, and others (رضي الله عنهم). A full discussion of the various reports of this sermon is provided by al-Albānī in his booklet, "*Khuṭbat ul-Ḥājah*", published by al-Maktab ul-Islāmī, Beirut.

reverence, and do not die except as Muslims.» [1]

﴿يَا أَيُّهَا ٱلنَّاسُ ٱتَّقُوا رَبَّكُمُ ٱلَّذِي خَلَقَكُمْ مِنْ نَفْسٍ وَاحِدَةٍ، وَخَلَقَ مِنْهَا زَوْجَهَا، وَبَثَّ مِنْهُمَا رِجَالاً كَثِيرًا وَنِسَآءً، وَٱتَّقُواْ ٱللَّهَ ٱلَّذِي تَسَآءَلُونَ بِهِ وَٱلأَرْحَامَ، إِنَّ ٱللَّهَ كَانَ عَلَيْكُمْ رَقِيبًا۝﴾ النساء ١

«O people! Revere your Lord who has created you from a single soul, created from it its mate, and dispersed from both of them many men and women. Revere Allāh through whom you demand things from one another, and (cherish the ties of) the wombs. Indeed, Allāh is ever-watchful over you.» [2]

﴿يَٰأَيُّهَا ٱلَّذِينَ ءَامَنُواْ ٱتَّقُواْ ٱللَّهَ وَقُولُواْ قَوْلاً سَدِيدًا۝ يُصْلِحْ لَكُمْ أَعْمَٰلَكُمْ، وَيَغْفِرْ لَكُمْ ذُنُوبَكُمْ، وَمَن يُطِعِ ٱللَّهَ وَرَسُولَهُ فَقَدْ فَازَ فَوْزًا عَظِيمًا۝﴾ الأحزاب ٧٠-٧١

«O you who believe! Revere Allāh and say just words. He will then rectify your deeds and forgive your sins. He who obeys Allāh and His Messenger has certainly achieved a great victory.» [3]

أَمَّا بَعْدُ، فَإِنَّ خَيْرَ ٱلْحَدِيثِ كِتَابُ ٱللَّهِ،

وَخَيْرَ الهَدْيِ هَدْيُ مُحَمَّدٍ (ﷺ)، وَشَرَّ الأُمُورِ مُحْدَثَاتُهَا،

وَكُلَّ مُحْدَثَةٍ بِدْعَةٌ، وَكُلَّ بِدْعَةٍ ضَلاَلَةٌ، وَكُلَّ ضَلاَلَةٍ فِي ٱلنَّارِ.

Verily, the best speech is Allāh's (ﷻ) speech; the best guidance is Muḥammad's (ﷺ) guidance; and the worst matters (in creed or worship) are those innovated (by the people), for every innovated matter is a *bid'ah* (prohibited innovation), and every *bid'ah* is an act

1 *Āl 'Imrān* 3:102.

2 *An-Nisā'* 4:1.

3 *Al-Aḥzāb* 33:70-71.

of misguidance that (whoever initiated it) will reside in the Fire. [1]

Defining Our Mission

Our goal in our works is propagating the true *Daʿwah* that derives from Allāh's (ﷻ) Book and His Messenger's (ﷺ) *Sunnah*. This is a duty that every Muslim should cherish. Allāh (ﷻ) says:

﴿وَلْتَكُن مِّنكُمْ أُمَّةٌ يَدْعُونَ إِلَى ٱلْخَيْرِ وَيَأْمُرُونَ بِٱلْمَعْرُوفِ وَيَنْهَوْنَ عَنِ ٱلْمُنكَرِ، وَأُوْلَـٰٓئِكَ هُمُ ٱلْمُفْلِحُونَ۝﴾ آل عمران ١٠٤

«Let there arise from you a group of people inviting to the good, enjoining the right and forbidding the wrong. Those will be the successful.» [2]

This *Daʿwah* has two fundamental aspects:

(a) *Taṣfiyah*: Cleansing and purifying the *Islām*ic beliefs and practices.

(b) *Tarbiyah*: Guiding and educating the people according to the purified teachings.

Allāh (ﷻ) indicates that this was the Prophet's (ﷺ) message:

﴿هُوَ ٱلَّذِي بَعَثَ فِي ٱلْأُمِّيِّـنَ رَسُولاً مِّنْهُمْ، يَتْلُواْ عَلَيْهِمْ ءَايَـٰتِهِ وَيُزَكِّيهِمْ وَيُعَلِّمُهُمُ ٱلْكِتَـٰبَ وَٱلْحِكْمَةَ وَإِن كَانُواْ مِن قَبْلُ لَفِي ضَلَـٰلٍ مُّبِينٍ۝﴾ الجمعة ٢

«It is He who has sent among the unlettered a Messenger from themselves reciting to them His *āyāt*,

---

1 Muslim and others have recorded from Jābir Bin ʿAbdillāh (رضي الله عنه) that Allāh's Messenger (ﷺ) used to start his speeches with this paragraph.

2 *Āl ʿImrān* 3:104.

purifying them, and teaching them the Book and Wisdom — although they were before in clear deviation.» [1]

This is also an obligation on every Muslim according to his ability, as Allāh (ﷻ) commands:

﴿وَتَعَاوَنُواْ عَلَى ٱلْبِرِّ وَٱلتَّقْوَىٰ، وَلَا تَعَاوَنُواْ عَلَى ٱلإِثْمِ وَٱلْعُدْوَانِ﴾ المائدة ٢

«Help one another in righteousness and piety; and do not help one another in sinning and transgression.» [2]

Our mission is then to propagate the *Islām*ic teachings in various areas as follows:

1. Correcting Our Beliefs and Practices

We should revere, study, comprehend, and implement the noble *Qur'ān* and the Prophet's authentic *Sunnah* in accordance with the understanding and practice of the righteous *salaf*: the *ṣaḥābah* and their true followers, who are described in the following:

﴿وَٱلسَّـٰبِقُونَ ٱلأَوَّلُونَ مِنَ ٱلْمُهَـٰجِرِينَ وَٱلأَنصَارِ وَٱلَّذِينَ ٱتَّبَعُوهُم بِإِحْسَـٰنٍ رَضِيَ ٱللَّهُ عَنْهُمْ وَرَضُواْ عَنْهُ وَأَعَدَّ لَهُمْ جَنَّـٰتٍ تَجْرِي تَحْتَهَا ٱلأَنْهَارُ خَـٰلِدِينَ فِيهَا أَبَدًا، ذَٰلِكَ ٱلْفَوْزُ ٱلْعَظِيمُ﴾ التوبة ١٠٠

«The first to embrace *Islām* among the *Muhājirūn* and the *Anṣār*, and also those who followed them in the best way — Allāh is pleased with them and they with Him. He has prepared for them gardens beneath which rivers flow: They will abide therein forever. This is the supreme success.» [3]

1 *Al-Jumu'ah* 62:2.
2 *Al-Mā'idah* 5:2.
3 *At-Tawbah* 9:100.

Thus, the guidance of the *salaf* is the only true guidance. Furthermore, the beliefs of the *ṣaḥābah* are the only acceptable beliefs:

﴿فَإِنْ آمَنُوا بِمِثْلِ مَآ ءَامَنتُم بِهِ فَقَدِ ٱهْتَدَوا﴾ البقرة ١٣٧

«So if they believe as you believe [1], they are indeed truly guided.» [2]

Allāh warns against following any guidance other than the Messenger's (ﷺ) and his companions (ﷺ):

﴿وَمَن يُشَاقِقِ ٱلرَّسُولَ مِن بَعْدِ مَا تَبَيَّنَ لَهُ ٱلْهُدَىٰ،
وَيَتَّبِعْ غَيْرَ سَبِيلِ ٱلْمُؤْمِنِينَ، نُوَلِّهِ مَا تَوَلَّىٰ، وَنُصْلِهِ جَهَنَّمَ،
وَسَآءَتْ مَصِيرًا۝﴾ النساء ١١٥

«Whoever opposes the Messenger, after guidance has become clear to him, and follows other than the way of the believers [3], We will give him what he has chosen and let him into Hell: What an evil destination!» [4]

2. Inviting to the True *Dīn*

We should contribute to educating and guiding the Muslims to adopt the true *Dīn*, act according to its teachings, and adorn themselves with its virtues and ethics.

We should also contribute to inviting the non-Muslims to the unadulterated truth of *Islām*.

This is the only way for any person to attain Allāh's acceptance and achieve happiness and glory. Allāh (ﷻ) says:

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1 The address here is to the *ṣaḥābah* (ﷺ).

2 *Al-Baqarah* 2:137.

3 The description "believers" here applies first and foremost to the *ṣaḥābah* (ﷺ).

4 *An-Nisā'* 4:115.

﴿وَٱلْعَصْرِ ۝ إِنَّ ٱلْإِنسَـٰنَ لَفِي خُسْرٍ ۝ إِلَّا ٱلَّذِينَ ءَامَنُوا۟ وَعَمِلُوا۟
ٱلصَّـٰلِحَـٰتِ وَتَوَاصَوْا۟ بِٱلْحَقِّ وَتَوَاصَوْا۟ بِٱلصَّبْرِ ۝﴾ العصر ١-٣

«By time, the human being is surely in loss, except for those who believe, do righteous deeds, enjoin upon one another the keeping to truth, and enjoin upon one another patience (in adversity).» [1]

3. Warning Against Deviant Beliefs and Practices

We should caution the Muslims and exhort them against any beliefs or practices alien to the pure teachings of *Islām*, such as *shirk* and *bid'ah*s.

4. Purifying the *Sunnah*

We should contribute to cleansing the *Sunnah* of weak and fabricated narrations. Wrong beliefs and practices deriving from weak reports have marred the beauty of *Islām* and prevented the Muslims' advancement.

The duty of purifying the *Sunnah* is so vital that the Messenger (ﷺ) praised those who perform it by saying:

«يحمل هذا العلم من كل خلف عدوله، ينفون عنه
تحريفَ الغالين، وانتحالَ المبطلين، وتأويل الجاهلين.»

‹This knowledge will be carried by the trustworthy ones of every generation — they will expel from it the alterations made by those going beyond bounds, the false claims of the liars, and the false interpretations of the ignorant.› [2]

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1 *Al-'Aṣr* 103:1-3.

2 Recorded by Ibn 'Adiyy, al-Khaṭīb al-Baghdādī, Ibn 'Asākir, and others. It is reported from a number of *ṣaḥābah* including Abū Hurayrah, Ibn Mas'ūd, and Anas (ﷺ). All of its reports have various levels of weakness, but they add up collectively to make this *ḥadīth ḥasan*, as is indicated by al-Albānī in *Mishkāt ul-*

5. Liberating the *Islāmic* Thought

Guided by the *Islām*ic principles, we should contribute to reviving the unobstructed *Islām*ic thought and opposing stubborn adherence to *mathhab*s and prejudiced loyalty to parties. Neglecting this in the past has caused rust to dwell on the hearts and minds of Muslims, diverting them from the pure original sources of *Islām*, and causing them to deviate from the honest *Islām*ic brotherhood called to by Allāh (ﷻ):

﴿وَٱعْتَصِمُوا۟ بِحَبْلِ ٱللَّهِ جَمِيعًا وَلَا تَفَرَّقُوا۟﴾ آل عمران ١٠٣

«And hold fast, all together, by the rope of Allāh, and be not divided among yourselves.» [1]

And by His Messenger (ﷺ):

«وكونوا، عبادَ اللّٰهِ، إخواناً»

‹Be, worshippers of Allāh, brothers.› [2]

6. Presenting the *Islāmic* Solution

We should contribute to providing realistic *Islām*ic solutions to contemporary problems, and strive toward resuming a true *Islām*ic way of life and establishing a true *Islām*ic society governed by Allāh's law. Allāh (ﷻ) says:

﴿وَأَنِ ٱحْكُم بَيْنَهُم بِمَآ أَنزَلَ ٱللَّهُ وَلَا تَتَّبِعْ أَهْوَآءَهُمْ﴾ المائدة ٤٩

«Hence, judge between them in accordance with what Allāh has revealed, and do not follow their errant views.» [3]

We call upon all the Muslims to support us in carrying out this

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Maṣābīḥ (no. 248), and as expressed by al-Ḥalabī in *al-Ḥiṭṭah* (p. 70).

1 *Āl ʿImrān* 3:103.

2 Recorded by al-Bukhārī and Muslim.

3 *Al-Māʾidah* 5:49.

noble trust. This will surely elevate and honor them and spread the eternal message of *Islām* all over the earth, as is Allāh's true promise:

﴿هُوَ ٱلَّذِي أَرْسَلَ رَسُولَهُ بِٱلْهُدَىٰ وَدِينِ ٱلْحَقِّ لِيُظْهِرَهُ عَلَى ٱلدِّينِ
كُلِّهِ وَلَوْ كَرِهَ ٱلْمُشْرِكُونَ۝﴾ الصف ٩

«It is He who has sent His Messenger with Guidance and the Religion of Truth, in order to make it prevail over all (false) religion, however hateful this may be to the pagans.» [1]

CONCLUSION

This work is, therefore, a humble response to our realization of a great responsibility: the responsibility to help bring forth before the English-speaking public writings that refine *Islām* and present it pure and simple, as close as possible to the way it was understood and practiced by its early righteous pioneers — the *salaf*.

Technicalities

TRANSLITERATION

We have made a serious attempt to restrict the use of transliterated Arabic terms to the following two situations:

a) There is no English expression that can reflect the same meaning as the original term.

b) The Arabic term is of such importance that it is essential to familiarize the readers with it.

At the end of this book, we have included a glossary defining common Arabic terms that fulfill the above criteria. In addition, we

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1 *Aṣ-Ṣaff* 61:9.

have included an index of the Arabic terms that are more pertinent to this current work, indicating the page on which they have been defined.

Except for proper nouns, transliterated Arabic terms are *italic*ized. In general, the rules of English pronunciation can be applied. The following table includes additional symbols employed in this book to help pronounce the Arabic terms.

Symbol	**Stands for**	**English Equivalent Sounds**
ā, Ā	(ا) *Alif* (long vowel a)	Mostly: Man, sad. At times: Father, hard, god.
ū, Ū	(و) *Wāw* (long vowel u)	Root, soup, flute.
ī, Ī	(ي) *Yā'* (long vowel i)	Seed, lean, piece, receive.
'	(ء) *Hamzah*	The first consonant vocal sound uttered when saying: at, it or oh.
Th, th	(ث) *Thā'*	Three, moth.
Ḥ, ḥ	(ح) *Ḥā'*	No equivalent. Produced in the lower throat, below "h". Resembles the sound produced after swallowing.
Kh, kh	(خ) *Khā'*	No equivalent. Produced in the back of the mouth and top of the throat.
Th, th	(ذ) *Thāl*	There, mother.
Ṣ, ṣ	(ص) *Ṣād*	A deeper "s" sound. Somewhat close to the "sc" in "muscle".
Ḍ, ḍ	(ض) *Ḍād*	Sounds deeper than a "d". Produced by touching the tongue to the mouth's roof.
Ṭ, ṭ	(ط) *Ṭah*	Similar but deeper than a "t".

Symbol	Stands for	English Equivalent Sounds
Ẓ, ẓ	(ظ) *Ẓah*	A deeper *t͟hāl*, produced by touching the tip of the tongue to the back of the front teeth.
ʿ	(ع) *ʿAyn*	Produced in the bottom of the throat, underneath "ḥ".
Gh, gh	(غ) *Ghayn*	A gurgling sound produced in the back of the mouth, just above the *khāʾ*. Similar to the "R" in some french accents.
Q, q	(ق) *Qāf*	Somewhat similar to the "c" in "c̲offee".

TRANSLATING AND REFERENCING *QURʾĀN* AND *ḤADĪTH*

The *Qurʾān* contains Allāh's exact words. These words cannot be exactly translated into other languages because of possible misinterpretations and limited human understanding. It is best to translate the meanings as understood by the Muslim scholars. This is what is attempted here. When an *āyah* is cited, the Arabic text is quoted first, followed, between double angle quotation marks («»), by the English meaning in **boldface**. The meaning is extracted from books of *tafsīr* and from accessible translations.

The location of a *Qurʾān*ic citation is specified in a footnote. It provides the name of the *sūrah* followed by its number and the number(s) of the *āyah*(s) cited.

Similarly, when we cite a *ḥadīth*, we provide the Arabic text for the Prophet's (ﷺ) words, and follow that by its meaning, in **boldface**, between single angle quotation marks (‹›).

A footnote normally specifies the location of a cited *ḥadīth* in the *Ḥadīth* compilations. The footnote indicates as well its degree of authenticity and the names of scholars who made such judgement. A *ḥadīth* narrated by al-Bukhārī or Muslim is automatically considered authentic.

NOTABLE UTTERANCES

Out of love, appreciation, gratitude and other noble feelings, a Muslim is encouraged to utter certain phrases at the mention of Allāh, His messengers, the angels, the *ṣaḥābah*, or other righteous Muslims. We present these phrases in condensed Arabic calligraphy as follows:

Phrase	Mentioned with	Transliteration	Meaning
سبحانه وتعالى	Allāh's Name	*Subḥānahū wa taʿālā.*	He is exalted above weakness and indignity.
عز وجل	Allāh's Name	*ʿAzza wa-jall.*	May He be hallowed and glorified.
جل جلاله	Allāh's Name	*Jalla jalāluh.*	May His glory be hallowed.
صلى الله عليه وسلم	Muḥammad and other prophets	*Ṣalla 'Llāhu ʿalayhi wa sallam* [1].	May Allāh's peace and praise be on him.
عليه السلام	Prophets and angels	*ʿAlayh is-Salām.*	Peace be on him.
رضي الله عنه	A male companion	*Raḍiya 'Llāhu ʿanhu.*	May Allāh be pleased with him.
رضي الله عنها	A female companion	*Raḍiya 'Llāhu ʿanhā.*	May Allāh be pleased with her.
رضي الله عنهما	Two companion	*Raḍiya 'Llāhu ʿanhumā.*	May Allāh be pleased with them.

1 Uttering this is sometimes described as, "saying *ṣalāh* upon the Messenger".

Phrase	Mentioned with	Transliteration	Meaning
ﷸ	More than two companions	*Raḍiya 'Llāhu ʿanhum.*	May Allāh be pleased with them.
﷬	A past scholar or righteous Muslim.	*Raḥimahu 'Llāh.*	May Allāh have mercy on him.

When coming across any of these symbols, the reader is advised to utter the complete phrase in order to obtain the reward of saying the appropriate *t͟hikr* or *duʿā'*.

PREFACE

The Inevitable Journey

We inevitably pass through the route starting in this life, and extending into the grave, before our final abode in the hereafter. In the process, we encounter stages of sickness, death, and the intermediate life in the grave (*al-Barzakh*). These are the subjects with which "The Inevitable Journey" deals over a sequence of four titles:

1. Sickness: Regulations & Exhortations

الْمَرَضُ: أحْكَامُهُ وعِظَاتُه

2. The Final Bequest: the *Islām*ic Will & Testament

ٱلوَصِيَّةُ وٱلعَهْدُ ٱلشَّرعِيُّ

3. Funerals: Regulations & Exhortations

الجَنَائِزُ: أحْكَامٌ وعِظَات

4. Life in *al-Barzakh*

الحَيَاةُ فِي البَرْزَخ

We present the subject matter of this series from the authentic texts of the *Qur'ān* and *Sunnah*, guided in their explanation by the understanding of the *ṣaḥābah* and the eminent *'ulamā'* of *Islām*.

In this series, as well as our other publications, we strive to eliminate all elements of superstition and falsehood that have traditionally crept into this side of the human life in various cultures.

All books in this series are meant to be useful handbooks and

references in their subject matter. Whenever possible, the material is presented in table format for easy reference, discussion, and study. Supplications are generally presented with the Arabic text, transliteration, and English meanings.

This Book

General Description

This book is the Second in the series [1]. Its main goal is to direct the Muslims and guide them in writing their wills, especially those living in non-*Islām*ic countries where the correct laws of inheritance are not normally applicable.

Thus, the first two chapters mostly deal with guidelines and instructions concerning writing a will.

Furthermore, a good portion of this book has been reserved for the subject of "the *Islām*ic Law of Inheritance". Among the reasons for this are the following:

1) The *Islām*ic law of inheritance is an essential complement to the subject of will-writing. Both of them need to be considered when an estate is divided.

2) Individuals writing their will in the west need a reference on the *Islām*ic law of inheritance to help them determine the correct shares of their legal heirs. This would make their will more precise and acceptable by the non-Muslim authorities, and would help control the tendency toward unfairness in dividing the estate.

3) *Imām*s, executors, and other persons responsible for dividing an estate should have a basic knowledge of the *Islām*ic law of

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1 Chronologically, it was completed last, with Part 4 (Life in *al-Barzakh*) first, Part 1 (Sickness: Regulations & Exhortations) second, and Part 3 (Funerals: Regulations & Exhortations) third.

A predecessor to this book, titled "The *Islām*ic Will and Testament", was published in 1995, in a rudimentary form, and not as part of this series. That edition is out of print, and this book completely replaces and surpasses it.

inheritance.

4) With the scarcity of books on this subject in English, this could be used as a first reference or textbook for students who wish to study the subject of *Islām*ic inheritance.

Thus, the last three chapters of this book deal with the law of *Islām*ic inheritance. They lay down the textual foundation for the subject, present its basic rules, and provide numerous examples and case studies.

The appendix at the end provides complete will forms that are ready to be copied and filled.

ADDITIONAL MATERIAL

We can reproduce the tables and diagrams in this book for interested individuals who may wish to use them as stand-alone sheets for study or teaching. Those interested in this should contact the publisher (address on page iv).

Understanding Issues of *Ghayb*

Many issues discussed in "The Inevitable Journey" deal with *ghayb*, whose understanding requires applying the following important rules:

a) Issues of *ghayb* that are mentioned in the *Qur'ān* or authentic *ḥadīth*s should be accepted and believed without any doubt.

b) The texts concerning *ghayb* have real meanings that are within the human reason, and at least the versed Muslim *'ulamā'* understand them—otherwise, Allāh would not have addressed the people with them.

c) Unless there is an authentic evidence to the contrary, *ghayb* incidents should be understood and interpreted in accordance with the literal apparent meanings of the texts.

d) The physical laws of this life cannot always be applied to matters of *ghayb*. So, instead of hastily concluding that a particular incident does not make sense, we should realize that it is governed by different laws and should be accepted without *kayf*—without imposing our limited knowledge in attempting to interpret or misinterpret it.

Acknowledgements

All praise and thanks are due to our Lord (ﷻ) who facilitated completing this work. May He further reward all the Muslims who helped and supported this effort in various ways. In particular, may Allāh (ﷻ) reward my *shaykh* and teacher, Muḥammad Nāṣir ud-Dīn al-Albānī whose works have benefited us in ways beyond description, Rauf S. Azhar who reviewed the will forms repeatedly and provided numerous beneficent suggestions, ʿAbdullāh al-Jibālī who typed some of the Arabic text and designed the cover, and Ālāʾ al-Jibālī who proof-read parts of the manuscript.

We ask Allāh (ﷻ) to make this humble effort helpful and fruitful to the Muslims, forgive our shortcomings, purify our work from hypocrisy and conceit, and accept it from us.

Our Lord, forgive us and all of the believers, and bestow Your peace and praise upon our Prophet Muḥammad (ﷺ).

Muhammad al-Jibālī
18 *Rabīʿ ul-Awwal* 1420 H
1 July 1999

CHAPTER 1

INTRODUCTION

Why Write a Will?

The money and material property that we possess in this world is a trust from Allāh. During our lifetime, we are required to use it in the way that is most pleasing to our Lord (ﷻ).

On the Day of Judgement, Allāh (ﷻ) will surely ask us about our wealth, how did we earn it, and how did we spend it.

Ibn Mas'ūd and Abū Burazah (ﷺ) reported that Allāh's Messenger (ﷺ) said:

«لا تزولُ قدما ابن آدم يوم القيامة من عند ربه حتى يُسأل عن خمس: عن عمره فيم أفناه، وعن شبابه (أو جسمه) فيم أبلاه، وعن ماله من أين اكتسبه وفيم أنفقه، وماذا عمل فيما علم؟»

‹A human being's feet will not depart from before his Lord, on the Day of Resurrection, until he is questioned about five things:

1. **His lifetime — how did he consume it?**
2. **His youth and body — how did he utilize it?**
3. **His wealth — how did he earn it,**
4. **and how did he spend it?**
5. **And what did he do in regard to what he knew?›** [1]

Part of our fulfillment of the trust is that we strive to make sure that, after our death, the wealth is passed down to those who deserve it. Of course, Allāh (ﷻ) has already decreed in His Book the way that

1 Recorded by at-Tirmiḏhī. Verified to be authentic by al-Albānī (*aṣ-Ṣaḥīḥah* no. 946).

our estate should be divided after our death. But there are a few concerns:

1. The local authorities may not recognize Allāh's law in this regard. Unless we require its application in our will, our estate may be divided in a different way.

2. There might be individuals to whom we owe money, and others who owe us money. Such rights and duties must be settled before the estate can be correctly divided among the heirs. Clarifying this before death is vital in order to prevent confusion afterwards.

3. Allāh's Messenger (ﷺ) has given us the option of bequeathing up to one-third of our estate before the rest is divided among our legal heirs. Some non-inheriting relatives and other individuals and institutions might be in dire need of whatever monetary support we are able to provide to them.

4. The Muslims are generally very ignorant about the *Islām*ic teachings, especially in funeral and mourning-related issues. We may need to express some guidelines to prevent violations to *Islām* during our funeral.

These are just a few of the many reasons that make writing a will an obligation that should never be neglected. Neglecting it constitutes a permission for unfairness and injustice to rule when we have the ability to stop it.

Muslims Living in Non-*Islām*ic Countries

As indicated above and will be further discussed next chapter, writing a will is a religious obligation for all Muslims who possess something worth bequeathing.

This obligation is further emphasized for Muslims living or possessing property in a non-*Islām*ic country. They should write their will and make sure that the *Islām*ic requirements in it are legally binding on the executors and heirs. If they fail to do so, their estate

may be distributed in discord with the *Islām*ic law.

All states of the United States, for example, have laws to divide the estate of a person who dies "intestate" – without a will. However, dying intestate has several problems: it involves a great deal of delay in the settlement of the estate; if the court were to appoint a lawyer as administrator, his fees may be very expensive; and most importantly, the state's method of dividing the assets of the estate will not conform with *Islām*.

Thus, a will should answer three basic questions:

1. How should the property be distributed?

2. Who should settle the deceased's financial affairs?

3. Who should take care of the deceased's minor children?

The answers involve making certain decisions.

One of the first decisions will be to select a person to serve as the executor. The executor's responsibility is to assemble the property, inventory it, pay the deceased's debts, pay the funeral expenses, file estate and income tax returns, pay any taxes due, sell property if necessary to meet all obligations, distribute the remaining property according to the will, and submit a final accounting to the beneficiaries and the probate court.

If there are minor children in the family, a guardian should be appointed for them in the will. One must be concerned, for instance, with: who will take care of the children if both parents die together at a young age. Muslims certainly would not want their children to be brought up by non-Muslims.

Many scholars have prepared wills in Arabic that address some of the requirements indicated above, but obviously neglect others pertaining to the Muslims in the west. A few wills have been written in English, some of them in reasonable conformation with the *Sunnah*. Among those is our previous work (refer to the Preface).

This book attempts to put together the best of all that is available. We believe that the will included in the Appendix is a sound one, both from the *Islām*ic and legal stands. However, we do not assume any legal responsibility and carry no liability whatsoever in relation to

using it by individuals as their final will and testament.

Our hope is that, by this, we are presenting to the Muslims in the West a much needed service, for which we seek Allāh's acceptance and forgiveness.

Seek What Benefits You the Most

WHICH MONEY IS THE BEST?

When one writes his will, and considers how his estate will be distributed after his death, he should think of something more important: How can he best benefit from the wealth that he currently control? After he departs from this life and resides under the earth, would he be more concerned about how well his kin are enjoying the inheritance, or how well and secure he himself is? Even though the answer to this question is obvious, and everyone will rush to say that he would care more about his own well-being after death, we find that the people's practice demonstrate the opposite!

'Abdullāh Bin Mas'ūd (ﷺ) reported that the Prophet (ﷺ) once asked the companions, «أيُّكم مالُ وارثه أحبُّ إليه مِن مالِه؟» ‹**Who among you loves his heirs' wealth more than his own?**› They replied, "O Allāh's Messenger! No one among us but loves his own wealth more than that of his heirs." He said:

«اْعلموا أنه ليس منكم من أحد إلاّ مالُ وارِثه أحبُّ إليه مِن مالِه. مالُك ما قدَمتَ، ومالُ وارِثك ما أخّرتَ.»

‹Know that none among you but his heirs' wealth is dearer to him than his own wealth! Your wealth is that which you send forth (through charity), and your heirs' is that which you leave behind.› [1]

In another report, Ibn Mas'ūd (ﷺ) said that the Prophet (ﷺ) said:

1 Recorded by an-Nasā'ī and Aḥmad. Verified to be authentic by al-Albānī (*aṣ-Ṣaḥīḥah* no. 1486).

«أيُّكم مالُ وارثِه أحبُّ إليه مِن مالِه؟
فإن مالَهُ ما قدم، ومال وارثه ما أخّر.»

‹Who among you loves his heirs' wealth more than his own? Verily, his wealth is that which he sends forth (as charity), and his heirs' is that which he leaves behind.› [1]

Do not Postpone the Good

One should not delay the charity that he wants to give until he feels the pangs of death. That would be too late, because his wealth is then being passed over to his heirs and is not his anymore. This is emphasized in the *ḥadīth* of 'Imrān Bin Ḥuṣayn (ﷺ) in the next chapter in which he reports that the Prophet (ﷺ) disallowed the charity of a man who freed his six slaves at the time of death.

Also, Abū Hurayrah (ﷺ) reported that Allāh's Messenger (ﷺ) said:

«أفضل الصدقة أن تتصدق وأنت صحيحٌ شحيحٌ، تخشى الفقرَ
وتأمل الغنى. ولا تُمهِل، حتى إذا بلغت الحُلقومَ قلت: "لفلانٍ كذا
ولفلانٍ كذا،" ألا وقد كان لفلانٍ كذا»

‹The best type of charity is that which you give when you are healthy and short of funds, fearing poverty and hoping for wealth. Do not postpone it till, when your soul reaches your throat, you say, "Give so-much to so-and-so, and so much to so-and-so. Verily, by then, so-and-so had already gotten so much.› [2]

Thus, servant of Allāh, when you sit down to write your will, remember this, and think earnestly of things you can do with your

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1 Recorded by al-Bukhārī and others.

2 Recorded by Aḥmad, al-Bukhārī, Muslim, and others.

wealth while you live that will benefit you after death. [1]

We ask Allāh to guide us and grant us righteousness, a good end, and death upon the testimony of *Islām*.

1 The reader is urged to read in this regard the chapter about "the things that benefit the dead" from our book, "Life in al-Barzakh", which is Part 4 of this series (The Inevitable Journey).

CHAPTER 2

WRITING THE WILL

Definition

WILL — *WAṢIYYAH*

The Arabic word for "will" is "*waṣiyyah*". It means a "definite command or obligation".

Thus, in regard to fearing and obeying Him, Allāh (ﷻ) gives the *waṣiyyah*:

﴿وَلَقَدْ وَصَّيْنَا ٱلَّذِينَ أُوتُوا۟ ٱلْكِتَـٰبَ مِن قَبْلِكُمْ وَإِيَّاكُمْ أَنِ ٱتَّقُوا۟ ٱللَّهَ﴾ النساء ١٣١

«Verily, we have <u>commanded</u> the people of the Scripture before you, and you (Muslims) that you all revere Allāh.» [1]

In regard to treating the parents with kindness and benevolence, Allāh gives the following *waṣiyyah* in various places of His Book:

﴿وَوَصَّيْنَا ٱلْإِنسَـٰنَ بِوَٰلِدَيْهِ حُسْنًا﴾ العنكبوت ٨

«We <u>commanded</u> the human being to be kind and dutiful to his parents.» [2]

﴿وَوَصَّيْنَا ٱلْإِنسَـٰنَ بِوَٰلِدَيْهِ إِحْسَـٰنًا﴾ الأحقاف ١٥

«We <u>commanded</u> the human being to be kind and

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1 *An-Nisā'* 4:131.

2 *Al-'Ankabūt* 29:8.

dutiful to his parents.» [1]

﴿ووَصَّيْنَا ٱلإنسَـٰنَ بِوَالِدَيْهِ، حَمَلَتْهُ أُمُّهُ وَهْنًا عَلَىٰ وَهْنٍ﴾ لقمان ١٤

«We have <u>commanded</u> the human being (to be dutiful) in regard to his parents. His mother bore him in weakness and hardship over weakness and hardship.» [2]

In regard to adhering to Allāh's commands and abstaining from what He prohibited, Allāh (ﷻ) tells his Messenger (ﷺ):

﴿قُلْ تَعَالَوْاْ أَتْلُ مَا حَرَّمَ رَبُّكُمْ عَلَيْكُمْ، أَلاَّ تُشْرِكُوا بِهِ شَيْئًا ...﴾

الأنعام ١٥١

«Say (O Muḥammad), "Come, I will recite what your Lord has prohibited for you: Do not join anything in worship with Him, ...» [3]

In that and the following two *āyāt*, Allāh (ﷻ) concludes the listed prohibitions and commands by declaring that this is His *waṣiyyah*:

﴿ذَٰلِكُمْ وَصَّـٰكُم بِهِ لَعَلَّكُمْ تَعْقِلُونَ﴾ الأنعام ١٥١

«... This He has <u>commanded</u> you, that you may use reason.» [4]

﴿ذَٰلِكُمْ وَصَّـٰكُم بِهِ لَعَلَّكُمْ تَذَكَّرُونَ﴾ الأنعام ١٥٢

«... This He has <u>commanded</u> you, that you may remember.» [5]

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1 *Al-Aḥqāf* 46:15.
2 *Luqmān* 31:14.
3 *Al-Anʿām* 6:151.
4 *Al-Anʿām* 6:151.
5 *Al-Anʿām* 6:152.

﴿ذَٰلِكُمْ وَصَّـٰكُم بِهِ لَعَلَّكُمْ تَتَّقُونَ﴾ الأنعام ١٥٣

«... This He has commanded you, that you may have *taqwā*.» [1]

After ordaining the shares of the estate for the spouses and maternal siblings, Allāh says that this is His *waṣiyyah*:

﴿... وَصِيَّةً مِنَ ٱللَّهِ، وَٱللَّهُ عَلِيمٌ حَلِيمٌ ۝﴾ النساء ١٢

«This is a commandment from Allāh; and Allāh is ever Knowing and Tolerant.» [2]

And Allāh (ﷻ) indicates that the true believers are those who give each other the *waṣiyyah* of adhering to truth and perseverance:

﴿وَٱلْعَصْرِ ۝ إِنَّ ٱلإِنسَـٰنَ لَفِي خُسْرٍ ۝ إِلاَّ ٱلَّذِينَ ءَامَنُواْ وَعَمِلُواْ ٱلصَّـٰلِحَـٰتِ وَتَوَاصَوْاْ بِٱلْحَقِّ وَتَوَاصَوْاْ بِٱلصَّبْرِ ۝﴾ العصر ١-٣

«By time, the human being is verily in loss — except for those who believe and do righteous deeds, and command each other to truth and command each other to patience.» [3]

COMMAND AT THE TIME OF DEATH

Waṣiyyah also means a command given by a person who is about to die, in order to be executed after his death. Ibrāhīm (ﷺ), as well as his grandson Yaʿqūb (ﷺ), gave the following important *waṣiyyah* to their sons:

﴿وَوَصَّىٰ بِهَآ إِبْرَاهِيمُ بَنِيهِ وَيَعْقُوبُ: "يَـٰبَنِيَّ إِنَّ ٱللَّهَ ٱصْطَفَىٰ لَكُمُ

1 *Al-Anʿām* 6:153.
2 *An-Nisāʾ* 4:12.
3 *Al-ʿAṣr* 103:1-3.

ٱلدِّينَ، فَلَا تَمُوتُنَّ إِلَّا وَأَنتُم مُّسْلِمُونَ" ﴿١٣٢﴾ البقرة ١٣٢

«And Ibrāhīm <u>commanded</u> this sons with that (submission to Allāh), and so did Ya'qūb, "O my sons, Allāh has surely chosen for you this religion, so do not die except as Muslims."» [1]

SHARĪ MEANING

In the legal language of the *Islāmic* *shar'* (legislations), a will is a set of instructions given by a person to individuals whom he expects to survive him. It includes *Islāmic* instructions and admonishments, monetary distributions, and assignments of rights.

In this sense of *waṣiyyah*, Allāh (ﷻ) says:

﴿...إِذَا حَضَرَ أَحَدَكُمُ ٱلْمَوْتُ، إِن تَرَكَ خَيْرًا، ٱلْوَصِيَّةُ...﴾ البقرة ١٨٠

«... When death approaches any of you and he is leaving wealth, that he makes fair <u>bequests</u> ...» [2]

﴿... مِن بَعْدِ وَصِيَّةٍ يُوصِي بِهَا أَوْ دَيْنٍ...﴾ النساء ١١

«... After payment of any <u>bequeathal</u> that he may have made, or debts ...» [3]

﴿... مِن بَعْدِ وَصِيَّةٍ يُوصِينَ بِهَا أَوْ دَيْنٍ... ﴾ النساء ١٢

« ... After payment of any <u>bequeathal</u> that they (your wives) had made, or debts ...» [4]

﴿... مِن بَعْدِ وَصِيَّةٍ تُوصُونَ بِهَآ أَوْ دَيْنٍ...﴾ النساء ١٢

«... After payment of any <u>bequeathal</u> that you had

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1 *Al-Baqarah* 2:132.

2 *Al-Baqarah* 2:180.

3 *An-Nisā'* 4:11.

4 *An-Nisā'* 4:12.

made, or debts ...» [1]

﴿... مِن بَعْدِ وَصِيَّةٍ يُوصِىٰ بِهَآ أَوْ دَيْنٍ غَيْرَ مُضَآرٍّ...﴾ النساء ١٢

«... After payment of any <u>bequeathal</u> that had been made, or debts that are not intended to cause harm.» [2]

﴿يَٰٓأَيُّهَا ٱلَّذِينَ ءَامَنُوا۟ شَهَٰدَةُ بَيْنِكُمْ إِذَا حَضَرَ أَحَدَكُمُ ٱلْمَوْتُ حِينَ ٱلْوَصِيَّةِ ٱثْنَانِ ذَوَا عَدْلٍ مِّنكُمْ...﴾ المائدة ١٠٦

«O you who believe! When death approaches one of you, testimony should be taken among you at the time of <u>bequest</u> by two just men of your own.» [3]

The Obligation of Writing the Will

Since no one knows when or where death will come to him, one must hasten to write his will. Allāh's Messenger (ﷺ) indicates that this is an obligation for everyone who has anything worth bequeathing.

Ibn ʿUmar (ﷺ) reported that the Prophet (ﷺ) said:

«ما حقُّ امرئٍ مُسلمٍ، لهُ شيءٌ يوصي به، يبيتُ ليلتين إلاّ ووصيّتُه مكتوبةٌ عِندَه.»

‹It is not rightful for a Muslim person, if he has anything to bequeath, that he sleeps two consecutive nights without having his will written with him.›

Ibn ʿUmar (ﷺ) then noted, "Not even one night has passed me, ever since I heard this from the Prophet (ﷺ), without having my will with

1 *An-Nisā'* 4:12.

2 *An-Nisā'* 4:12.

3 *Al-Mā'idah* 5:106.

me." [1]

This is most important if one owes dues to Allāh (ﷻ) or His *'ibād* (servants) that may not be fulfilled without a will. Also, this obligation is further emphasized in situations where one approaches a dangerous undertaking, such as a fight, risky journey, or severe illness.

People Benefitting from a Bequeathal

The will is an important means of helping the relatives and other individuals. The standard legal heirs may not receive any additional allocation through bequeathal, but others may. In fact, it is recommended to bequeath to the needy relatives, especially if one is leaving a large wealth.

Standard Heirs

It is prohibited to bequeath anything to the *Islām*ic legal heirs, because Allāh has already appointed to them their rightful shares of the inheritance.

However, one may include special clauses in his will to assure that they receive their correct legal shares according to *Islām*. This is especially important in countries where the *Islām*ic law of inheritance is not applicable.

Abū Umāmah al-Bāhilī (رضي الله عنه) and others reported that the Messenger (ﷺ) said in a *khuṭbah* in his Farewell Pilgrimage:

«إن اللّه قد أعطى كل ذي حق حقه، فلا وصية لوارث.
ولا تنفقُ المرأةُ شيئاً من بيتها إلا بإذن زوجها.»

‹Allāh has appointed for everyone his due right; thus no bequest may be made to a (standard) heir. And a woman may not spend anything from her house without her husband's permission.›

1 Recorded by al-Bukhārī, Muslim, and others.

Someone asked, "O Allāh's Messenger! Not even food?" He replied, «ذاك أفضل أموالنا.» ‹**That is our best type of wealth.**› He then continued:

«العارية مؤدّاة، والمِنحة مردودة، والدين مقضي، والزعيم غارم.»

‹A borrowed thing must be guaranteed (to be returned), a thing lent for a benefit (like a goat's milk) must be returned, a debt must be paid off, and a guarantor is responsible (for whatever he guaranteed).› [1]

Many other companions also reported from Allāh's Messenger (ﷺ) that:

«لا وصيّة لِوارثٍ.»

‹No bequest may be made to a (standard) heir.› [2]

THE RELATIVES

It is recommended to bequeath to non-heir relatives — the closest then the closer. The bequests are taken out of the inheritance before dividing the rest among the legal heirs. Allāh (ﷻ) says:

﴿كُتِبَ عَلَيْكُمْ إِذَا حَضَرَ أَحَدَكُمُ ٱلْمَوْتُ، إِن تَرَكَ خَيْرًا، ٱلْوَصِيَّةُ لِلْوَالِدَيْنِ وَٱلْأَقْرَبِينَ بِٱلْمَعْرُوفِ، حَقًّا عَلَى ٱلْمُتَّقِينَ ۝﴾ البقرة ١٨٠

«It is ordained for you, when death approaches any of you and he is leaving wealth, that he makes fair bequests in favor of the parents and near relatives — a duty upon those who have *taqwā*.» [3]

1 Recorded by Abū Dāwūd, Ibn Mājah, and others. Verified to be authentic by al-Albānī (*Ṣaḥīḥ Abī Dāwūd* no. 3044).

2 Recorded by Aḥmad, Abū Dāwūd, at-Tirmiṯhī, and others from Ibn ʿAbbās, Anas, Jābir, ʿAbdullāh Bin ʿUmar, ʿAlī, and others (ﷺ). Verified to be authentic by al-Albānī (*Irwā'ul-Ghalīl* no. 1655).

3 *Al-Baqarah* 2:180.

According to Ibn ʿAbbās and many others among the *ṣaḥābah* and *tābiʿūn* (ﷺ), the part of this *āyah* pertaining to the parents has been abrogated by the *āyāt* of inheritance [1]. But the part pertaining to the non-inheriting relatives continues to hold. [2]

NON-MUSLIM RELATIVES

A disbeliever cannot be an heir for a Muslim [3]. What if a Muslim has a non-Muslim wife or mother? The will provides an important avenue for him to support such individuals after his death.

OTHER BENEFICIARIES

One may also direct a part of his estate to other unrelated individuals or institutions as he sees fit and pleasing to Allāh — not intending thereby to inflict harm on the legal heirs.

Maximum Bequeathal

Saʿd Bin Abī Waqqāṣ (ﷺ) narrated that he was with Allāh's Messenger (ﷺ) in the Farewell Pilgrimage. He was struck by a severe illness in Makkah, and felt that he was close to death. The Messenger (ﷺ) visited him, and he said to him, "O Messenger of Allāh, I am reduced to this state because of illness. I have a vast wealth, and no heirs except a daughter. Should I bequeath two thirds of my estate?" He (ﷺ) replied, «لا.» ‹**No!**› He said, "One half of my wealth then?" He (ﷺ) replied, «لا.» ‹**No!**› He said, "One third of my wealth then?" He (ﷺ) said:

«الثُّلُث، والثلث كثير. إنك إن تتركْ ورثتَك أغنياءَ خيرٌ من أن تدعَهُم عالةً يتكفّفون الناس. وإنك لن تُنفق نفقةً إلا أجِرتَ بها،

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1 See next chapter.

2 *Tafsīr Ibn Kathīr*.

3 See next chapter.

حتى اللقمة ترفعُها إلى في امرأتِك. إنك لن تُخَلَّفَ بعدي فتعمل عملاً صالحاً، تريد به وجه اللّه، لا تزدادُ به إلا رفعةً ودرجة. ثم لعلَّك أن تخلَّفَ حتى ينتفعَ بك أقوامٌ ويُضرَّ بك آخرون.

«اللّهم أمض لأصحابي هجرتهم، ولا تردهم على أعقابهم.

لكن البائسُ سعدُ ابنُ خولة.»

‹Yes, one third; and even one third is too much. Indeed, O Sa'd, you'd better leave your inheritors rich after you than leave them as a burden, begging people (and he (ﷺ) expressed this with a motion of his hand).

Indeed, O Sa'd, you will never spend money seeking by it Allāh's Face, but you will be rewarded for it — even for the morsel of food that you put into your wife's mouth.

And if you live after me, never would you do a good deed seeking thereby Allāh's Face, but will increase by it in position and elevation. Furthermore, you may live longer so that some people (the Muslims) will benefit from you and others (the disbelievers) will be harmed.

O Allāh, fulfill my companions' *Hijrah*, and do not turn them back upon their heels. But the miserable one was Sa'd Bin Khawlah [1].› [2]

To this, Ibn 'Abbās (ﷺ) said:

"I wish that people would reduce their bequests from one-third to one-fourth, because the Prophet (ﷺ) said that even one-third is too much." [3]

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1 Allāh's Messenger (ﷺ) is regretting for him that he died in Makkah before *Hijrah*.

2 Al-Bukhārī, Muslim, and others.

3 Al-Bukhārī, Muslim, and others.

Among the things that we learn from the above *ḥadīth* are the following:

1. The most that one may bequeath in his will is one-third of the entire estate, but it is better not to exceed one-fourth.

2. If one maintains a sincere intention of pleasing Allāh through helping the individual to whom he bequeaths, his bequeathal will count as a *ṣadaqah* that will benefit him after death.

3. The inheritance is a means that Allāh made for supporting one's nearest kin. One should not rob them of this right or cause them to fall into poverty after him.

4. The amounts and shares of the estate that go to the children, spouses, parents, siblings, or further relatives have been ordained by Allāh the Most Wise. One may not challenge that by proposing alternative shares that seem more reasonable to him — thereby imposing his limited knowledge and experience over the unbounded knowledge and wisdom of Allāh (ﷻ).

Witnesses

One should have two just Muslim men witness his will. If this is not possible, then two non-Muslim men may be taken as witnesses, provided that their testimony is validated as explained in the *Qur'ān*:

﴿يَٰأَيُّهَا ٱلَّذِينَ ءَامَنُواْ، شَهَٰدَةُ بَيْنِكُمْ إِذَا حَضَرَ أَحَدَكُمُ ٱلْمَوْتُ،
حِينَ ٱلْوَصِيَّةِ ٱثْنَانِ ذَوَا عَدْلٍ مِّنكُمْ، أَوْ ءَاخَرَانِ مِنْ غَيْرِكُمْ إِنْ
أَنتُمْ ضَرَبْتُمْ فِي ٱلْأَرْضِ فَأَصَٰبَتْكُم مُّصِيبَةُ ٱلْمَوْتِ، تَحْبِسُونَهُمَا
مِنۢ بَعْدِ ٱلصَّلَوٰةِ، فَيُقْسِمَانِ بِٱللَّهِ إِنِ ٱرْتَبْتُمْ لَا نَشْتَرِي بِهِۦ ثَمَنًا،
وَلَوْ كَانَ ذَا قُرْبَىٰ، وَلَا نَكْتُمُ شَهَٰدَةَ ٱللَّهِ، إِنَّآ إِذًا لَّمِنَ ٱلْأَثِمِينَ۝

فَإِنْ عُثِرَ عَلَىٰٓ أَنَّهُمَا ٱسْتَحَقَّآ إِثْمًا، فَـَٔاخَرَانِ يَقُومَانِ مَقَامَهُمَا
مِنَ ٱلَّذِينَ ٱسْتَحَقَّ عَلَيْهِمُ ٱلْأَوْلَيَـٰنِ، فَيُقْسِمَانِ بِٱللَّهِ لَشَهَـٰدَتُنَآ
أَحَقُّ مِن شَهَـٰدَتِهِمَا وَمَا ٱعْتَدَيْنَآ، إِنَّآ إِذًا لَّمِنَ ٱلظَّـٰلِمِينَ ۝ ذَٰلِكَ
أَدْنَىٰٓ أَن يَأْتُوا۟ بِٱلشَّهَـٰدَةِ عَلَىٰ وَجْهِهَآ، أَوْ يَخَافُوٓا۟ أَن تُرَدَّ أَيْمَـٰنٌۢ
بَعْدَ أَيْمَـٰنِهِمْ، وَٱتَّقُوا۟ ٱللَّهَ وَٱسْمَعُوا۟، وَٱللَّهُ لَا يَهْدِى ٱلْقَوْمَ
ٱلْفَـٰسِقِينَ ۝﴾ المائدة ١٠٦-١٠٨

«O you who believe! When death approaches one of you, testimony should be taken among you at the time of bequest by two just men of your own.

If you are traveling through the land, and the calamity of death befalls you, then (this may be performed by) two men from other than your own. Detain them both after the prayer and, if you are in doubt, let them swear by Allāh (saying), "We wish not for any worldly gain in this, even if it be (to please) a near relative, neither will we conceal any of what we have witnessed before Allāh, for then indeed we would be of the sinful."

But if afterward it is found that these two were guilty of sin (perjury), let two others stand in their place from among those who were deprived of their right by the first two. They will swear by Allāh (saying), "We affirm that our testimony is truer than theirs, and we have not transgressed. Indeed we would then be of the wrongdoers."

Thus it will be more likely that they will give testimony in the proper way, or (at least) fear that their oaths will be refuted by the oaths of others. Revere Allāh and listen (with obedience to Him). Indeed, Allāh does not guide the disobedient folk.» [1]

1 *Al-Mā'idah* 5:106-108.

We learn from the above *āyāt* the following:

1. A will is acceptable even when one is at the verge of death.

2. Two just [1] men should be present and witness one's verbal or written will. Thereafter, they should supervise the division of the estate.

3. The two men should normally be Muslim, preferably from the same clan or tribe as the deceased.

4. If no Muslims are present, such as if the deceased was travelling through the land when death came to him, non-Muslim men will be appointed as the witnesses.

5. The witnesses must swear by Allāh that they will divide the estate as directed by the deceased, without being influenced by anyone or desirous of any worldly gain from that.

6. If there is a doubt that the witnesses breached their sworn promise, they should be replaced by two other witnesses from the side of the people who claim that their rights were violated.

Unfair Bequests

Allāh Is the One Who Ordains the Shares

Allāh (ﷻ) has ordained the various individuals' shares from the inheritance. Their shares increase or decrease based on their relationship to the deceased and other considerations, as will be detailed in the next chapter. Allāh (ﷻ) says:

﴿لِلرِّجَالِ نَصِيبٌ مِمَّا تَرَكَ ٱلْوَالِدَانِ وَٱلْأَقْرَبُونَ، وَلِلنِّسَآءِ نَصِيبٌ

1 "Just" means that they are of known truthfulness and righteousness.

مِمَّا تَرَكَ ٱلْوَالِدَانِ وَٱلْأَقْرَبُونَ، مِمَّا قَلَّ مِنْهُ أَوْ كَثُرَ، نَصِيبًا
مَفْرُوضًا ﴿﴾ النساء ٧

«For men is a share of what the parents and close relatives leave, and for women is a share of what the parents and close relatives leave, be it little or much — an ordained share (by Allāh).» [1]

Therefore, it is prohibited to change the ordained shares, or use the will as a means of causing harm or oppression, such as depriving some of the heirs from their rightful share, or favoring some of them over others.

Even if an heir had wronged the testator or appears to be of evil conduct, that is not a justification for denying him his share of the estate.

Non-*Islām*ic countries allow the testator full liberty in dividing his estate. But one may not take that as an excuse to disobey his Lord. He should fear Allāh's punishment and strive to remain within Allāh's ordained limits.

THE BEQUEST MAY NOT BE USED AS A TOOL OF OPPRESSION

Some people include fictitious bequeathals and debts in order to deprive the heirs of their rightful shares. This constitutes many violations to *Islām*, including the following:

1. As we saw above, this would mean opposing Allāh's ordainment.

2. It violates Allāh's (ﷻ) explicit prohibition of causing harm to the heirs. Allāh (ﷻ) says:

﴿ مِن بَعْدِ وَصِيَّةٍ يُوصَىٰ بِهَآ أَوْ دَيْنٍ غَيْرَ مُضَآرٍّ.
وَصِيَّةً مِنَ ٱللَّهِ، وَٱللَّهُ عَلِيمٌ حَلِيمٌ ﴿﴾ النساء ١٢

«(The allocations are made) after deducting any

1 *An-Nisā'* 4:7.

bequest that may have been made, or any debt (that may have been incurred), neither of which having been intended to harm (the heirs).» [1]

3. It violates Allāh's Messenger's (ﷺ) general prohibition of inflicting harm in any manner or form. Abū Saʿīd al-Khudrī (ﷺ) narrated that the Prophet (ﷺ) said:

«لا ضرر ولا ضِرارَ. من ضارَّ ضارَّه اللّهُ، ومن شاقَّ شاقَّه اللّهُ.»

‹(One may) neither initiate harm (toward others), nor respond (to their actions) by harming (them). Whoever harms others, Allāh will harm him; and whoever troubles others, Allāh will trouble him.› [2]

4. It violates Allāh's general command to the believers to be fair, even toward those whom they hate:

﴿يَـٰٓأَيُّهَا ٱلَّذِينَ ءَامَنُوا۟ كُونُوا۟ قَوَّٰمِينَ لِلَّهِ شُهَدَآءَ بِٱلْقِسْطِ، وَلَا يَجْرِمَنَّكُمْ شَنَـَٔانُ قَوْمٍ عَلَىٰٓ أَلَّا تَعْدِلُوا۟. ٱعْدِلُوا۟ هُوَ أَقْرَبُ لِلتَّقْوَىٰ، وَٱتَّقُوا۟ ٱللَّهَ. إِنَّ ٱللَّهَ خَبِيرٌۢ بِمَا تَعْمَلُونَ ۝﴾ المائدة ٨

«O you who believe, stand out firm for Allāh, and be just witnesses. Do not let the enmity and hatred of others prevent you from being just. Be just; that is nearer to piety. And revere Allāh; indeed, Allāh is well acquainted with what you do.» [3]

5. It violates Allāh's Messenger's (ﷺ) prohibition of cheating.
Abū Hurayrah (ﷺ) reported that Allāh's Messenger (ﷺ) said:

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1 *An-Nisā'* 4:12.

2 Recorded by ad-Dāraquṭnī, al-Ḥākim, and others. Verified to be *ḥasan* by al-Albānī and others (*Irwā' ul-Ghalīl* no. 896, *aṣ-Ṣaḥīḥah* no. 250, *Aḥkām ul-Janā'iz* p. 16).

3 *Al-Mā'idah* 5:8.

«من غش فليس منا.»

‹Whoever cheats is not one of us.› [1]

Ibn Mas'ūd (ﷺ) reported that Allāh's Messenger (ﷺ) said:

«من غشنا فليس منا، والمكرُ والخِداعُ في النار.»

‹Whoever cheats us is not one of us. Chicanery and deception are (punished) in the Fire› [2]

Void Parts

Under the *Islāmic* law, any part of a bequeathal that is unjust or wrong is voided and rejected. 'Ā'ishah (ﷺ) reported that the Prophet (ﷺ) said:

«من أحدث في أمرنا هذا ما ليس منه فهو رد.»

‹Anyone who innovates in this matter of ours (*Islām*) that which is not of it, it is rejected.› [3]

'Imrān Bin Ḥuṣayn (ﷺ) narrated that a man freed six slaves, which were all what he possessed, just before he died. His bedouin heirs came to the Prophet (ﷺ) complaining about that, upon which he (ﷺ) said:

«أوَفعلَ ذلك؟ لو علمنا إن شاء اللّهُ ما صلينا عليه.»

‹Did he really do that? Had we known, we would not have performed the prayer for him — if Allāh willed.›

He then divided the six slaves into three pairs, draw lots among them,

1 Recorded by Muslim and at-Tirmi<u>th</u>ī.

2 Recorded by aṭ-Ṭabarānī, Ibn Ḥibbān, and others. Verified to be authentic by al-Albānī (*aṣ-Ṣaḥīḥah* no. 1058).

3 Recorded by al-Bukhārī, Muslim, and others.

freed only one pair [1], and gave back the other four to the heirs. [2]

ATTEMPTING TO STOP THE INJUSTICE

Anyone who is able to stop the injustice must do so. This is specifically required in the case of a will. If the person who made a bequeathal appears to be unfair and sinful in that, those who are present should try to correct that — whether during his life, or by reconciling among the heirs after his death. Allāh (ﷻ) says:

﴿فَمَنْ خَافَ مِن مُّوصٍ جَنَفًا أَوْ إِثْمًا فَأَصْلَحَ بَيْنَهُمْ فَلَا إِثْمَ عَلَيْهِ، إِنَّ ٱللَّهَ غَفُورٌ رَّحِيمٌ ۝﴾ البقرة ١٨٢

«If one has reason to fear that the testator has committed an unjust act or a deliberate wrong, and thereupon brings about a settlement among them (the heirs), he will incur no sin by that. Indeed, Allāh is Forgiving and Merciful.» [3]

Basic Elements of a Will

Following the practice of the *salaf* and great Muslim scholars through the ages, an *Islām*ic will should have the following basic elements:

1. INDICATION OF THE TESTATOR'S SITUATION

The will normally starts with the testator's expression of being in sound mental ability and health. Thus he would be able to bequeath without being under the influence of medications, hallucination, etc.

2. DECLARATION OF FAITH

The testator declares his *Islām*ic faith, mentioning the most important

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1 That corresponds to one-third of the estate in this case.

2 Recorded by Aḥmad, Muslim, and others.

3 *Al-Baqarah* 2:182.

items, including the *Shahādah*, the belief in the hereafter, and so on.

3. Commanding the Survivors to Do Good and Avoid Sins

The testator commands his children, spouse, and other relatives and friends to maintain *taqwā* of Allāh. He commands them to obey Allāh (ﷻ) and abstain from disobedience. He emphasizes matters that are relevant to the circumstances in which they live and the tribulations to which they are subject. He warns against the numerous innovations and violations of the *Dīn* practiced by most people, especially in funeral-related matters [1]. He requires that his preparation and burial be done according to the *Sunnah*.

Commanding the family to observe the *Sunnah* and avoid innovations is a practice that was started by the Prophet's companions (ﷺ). The following are a few such examples:

'Āmir, son of Sa'd Bin Abī Waqqāṣ (ﷺ), reported that his father said on his death bed:

> "Dig my grave as a *laḥd* [2], and lay the bricks on top of me — as was done to Allāh's Messenger (ﷺ)." [3]

Abū Mūsā al-Ash'arī (ﷺ) said at the time of death:

> "When you walk in my funeral, walk fast, do not follow me with incense burners, do not erect over me anything that would separate me from the earth, and do not build a structure over my grave. And bear witness that I disown any woman who mourns over me by shaving her hair, beating herself, or tearing her clothes."

He was then asked, "Did you hear something in this regard?" He replied, "Yes, from Allāh's Messenger (ﷺ)." [4]

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1 Review our extensive book, "Funerals: Regulations & Exhortations", which is Part 3 of "The Inevitable Journey" series.

2 *Laḥd*: A niche dug for the body in the grave's wall that is in the direction of *Qiblah*. See "Funerals: Regulations & Exhortations".

3 Muslim and others.

4 Recorded by Aḥmad and others; authenticated by al-Albānī.

And Ḥu<u>th</u>ayfah (ﷺ) said:

> "When I die, do not announce my death to anyone, because I fear that it would count as lamenting; and I heard Allāh's Messenger (ﷺ) prohibit lamenting." [1]

For all of this, an-Nawawī (ﷺ) said:

> "It is highly recommended for a person to instruct his family to avoid the innovations that have become common in funerals, and to confirm his covenant with them upon it." [2]

4. Declaration of Liabilities and Assets

The testator declares all of his liabilities and debts, and all of his assets and possessions. Special attention should be given to hidden or undocumented property or debts.

5. Appointing an Executor and a Guardian

The testator appoints the person who will be in charge of executing his will after him. The executor should be given full authority to deal with the assets in order to fulfill the allocations of the will.

If the testator has underage children, he also appoints a well-trusted guardian to take care of their wealth and well-being until they come of age.

It is recommended that the executor and guardian be individuals who are young and likely to outlive the testator long enough to carry out his will as desired.

Those set in charge of the deceased's children should take good and sincere care of them, and realize that Allāh is watchful over them and would surely punish them if they incur any injustice. Allāh (ﷻ) warns against such by saying:

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1 Recorded by at-Tirmi<u>th</u>ī and others; authenticated by al-Albānī.

2 *Al-A<u>th</u>kār.*

﴿وَلْيَخْشَ ٱلَّذِينَ لَوْ تَرَكُوا۟ مِنْ خَلْفِهِمْ ذُرِّيَّةً ضِعَـٰفًا خَافُوا۟ عَلَيْهِمْ، فَلْيَتَّقُوا۟ ٱللَّهَ وَلْيَقُولُوا۟ قَوْلًا سَدِيدًا ۝﴾ النساء ٩

«And let them have fear, those who, were they to leave weak offspring, they would fear for them. So let them fear Allāh and speak right words.» [1]

6. The Bequeathed Part of the Estate

The testator indicates the amounts that he wishes to bequeath of his estate (up to one-third of the total), and specifies the beneficiaries. If a bequeathal is general, such as, "for spreading the *daʿwah* of *Islām*", it is recommended to specify the names of some knowledgeable persons who would make the disbursements in that regard.

7. Emphasizing the *Islāmic* Heirship

In non-*Islām*ic countries, it is recommended for the testator to specify his legal heirs and their correct shares (if known at the time of writing the will). Otherwise, he may make a reference to the *Islām*ic law of inheritance, as in this book, and directs that his estate be divided according to it.

Sanctity of the Will

Whether it is said by word of mouth, handwritten, or typed, a will has a special sanctity that must be observed and executed — unless it contains violations as indicated above.

Any witness who tries to change the will without right, or hides some parts that he knows, is sinful by that and liable to punishment, as Allāh (ﷻ) says:

﴿فَمَنۢ بَدَّلَهُۥ بَعْدَمَا سَمِعَهُۥ فَإِنَّمَآ إِثْمُهُۥ عَلَى ٱلَّذِينَ يُبَدِّلُونَهُۥٓ، إِنَّ ٱللَّهَ

1 *An-Nisāʾ* 4:9.

سَمِيعٌ عَلِيمٌ ۝﴾ البقرة ١٨١

«And if (after the testator's death) anyone alters such a provision after having come to know it, the sin of acting thus falls only upon those who have altered it [1]. Indeed, Allāh is Hearing and Knowing.» [2]

1 And not upon those who may have unknowingly benefited by this alteration.

2 *Al-Baqarah* 2:181.

CHAPTER 3

TEXTS CONCERNING INHERITANCE

In this chapter, we present texts from the *Qur'ān* and authentic *Sunnah* regarding inheritance in *Islām*. We accompany the texts with brief explanations as we find necessary. These texts largely provide the bases for the rules of inheritance, which will be summarized in next chapter.

The Estate Goes to the Legal Heirs

The estate of a deceased goes to the heirs that have been legally indicated in the *Islām*ic law. The *Islām*ic state has no right to any part of it, except in the rare situation where the deceased was not survived by any relatives — close or far. Allāh (ﷻ) says:

﴿لِلرِّجَالِ نَصِيبٌ مِمَّا تَرَكَ ٱلْوَالِدَانِ وَٱلأَقْرَبُونَ، وَلِلنِّسَآءِ نَصِيبٌ مِمَّا تَرَكَ ٱلْوَالِدَانِ وَٱلأَقْرَبُونَ، مِمَّا قَلَّ مِنْهُ أَوْ كَثُرَ، نَصِيبًا مَفْرُوضًا ۝﴾ النساء ٧

«For men is a share of what the parents and close relatives leave, and for women is a share of what the parents and close relatives leave, be it little or much — an ordained share (by Allāh).» [1]

Abū Hurayrah (ﷺ) reported that Allāh's Messenger (ﷺ) said:

«أنا أولى بالمؤمنين في كتاب الله، فأيكم ما ترك دينا أو ضيعة

1 *An-Nisā* 4:7.

فادعوني، فأنا وليُّه، وأيُّكم ما ترك مالاً فليؤثِر بماله عُصبَتَه من كان.»

‹As in Allāh's Book [1], I have more right to the believers (than anyone else). Whoever dies leaving a debt or dependents, call me because I am their sponsor. And whoever leaves wealth, it is for those who are his nearest of kin.› [2]

Similarly, Abū Hurayrah (ﷺ) reported that Allāh's Messenger (ﷺ) said:

«أنا أولى بالمؤمنين من أنفسهم، فمن تُوُفِّيَ من المؤمنين فترك ديناً فعليَّ قضاؤه، ومن ترك مالاً فهو لِوَرَثته.»

‹I have more right to the believers than themselves. Whoever dies leaving debt, it is upon me to pay it off; and whoever leaves a wealth, it is for his heirs.› [3]

And Abū Hurayrah (ﷺ) reported that Allāh's Messenger (ﷺ) said:

«ما من مؤمنٍ إلا أنا أولى به في الدنيا والآخرة. اقرؤوا إن شئتم:

‹There is no believer but I have the most right to him in this world and the hereafter. Read if you wish:

﴿ٱلنَّبِيُّ أَوْلَىٰ بِٱلْمُؤْمِنِينَ مِنْ أَنفُسِهِمْ﴾

«The Prophet has more right to the believers than themselves.» [4]

فأيُّما مؤمنٍ مات وترك مالاً، فليرِثْهُ عُصبتَهُ من كانوا،

1 *Al-Aḥzāb* 33:6.

2 Recorded by Muslim.

3 Recorded by al-Bukhārī, Muslim, and others.

4 *Al-Aḥzāb* 33:6.

ومن ترك ديناً أو ضياعاً فليأتني، فأنا مولاه.»

Thus, any believer who dies leaving wealth, let those who are his nearest of kin inherit him. and whoever dies leaving a debt or dependents, let them come to me, because I am their sponsor.› [1]

And Abū Hurayrah (ﷺ) reported that Allāh's Messenger (ﷺ) said:

«والذي نفسُ محمدٍ بيده، إن على الأرض من مؤمن إلا أنا

أولى الناس به. فأيُّكم ما ترك ديناً أو ضياعاً فأنا مولاهُ.

وأيُّكم ما ترك مالاً، فإلى العصبةِ من كان.»

‹By the One in Whose hand is Muḥammad's soul, there is no believer on the surface of the earth but I have more right to him than anyone else. Thus, whoever among you leaves a debt or dependents, I am their sponsor. And whoever leaves wealth, it is for those who are his nearest of kin.› [2]

Jābir (ﷺ) reported that Allāh's Messenger (ﷺ) said:

«أنا أولى بكل مؤمن من نفسه، فمن ترك ديناً

فعليّ ، ومن ترك مالاً فلورَثته.»

‹I have more right to every believer than himself. Whoever leaves a debt, it is my responsibility; and whoever leaves wealth, it is for his heirs.› [3]

From the above reports (and similar ones that will follow in the discussion of the maternal uncle), we conclude the following:

1 Recorded by al-Bukhārī.

2 Recorded by Muslim.

3 Recorded by Aḥmad, Abū Dāwūd, and an-Nasā'ī. Verified to be authentic by al-Albānī (*Irwā' ul-Ghalīl* no. 1416).

1. The *Islāmic* state, represented in these *ḥadīths* by the Prophet (ﷺ), is responsible for every individual of its citizenship.

2. The *Islāmic* state guarantees paying off the debts of a deceased whose estate is not enough for that.

3. The *Islāmic* state is responsible for the children and other dependents of a deceased whose estate is not enough to support them.

4. A deceased's inheritance goes to his legal heirs, and the *Islāmic* state has no share in it.

5. Only in the absence of legal heirs does the *Islāmic* state take the inheritance.

Abrogated Practices

Including Women in the Estate

Women are not part of the estate to be inherited by the heirs. That was a practice of *Jāhiliyyah* that *Islām* abrogated. Ibn ʿAbbās (ﷺ) reported that a male heir used to inherit the wife of a deceased relative and force her to stay within her house or give up her *mahr* (dowry) [1]. So Allāh (ﷻ) prohibited this in what follows:

﴿يَـٰٓأَيُّهَا ٱلَّذِينَ ءَامَنُوا۟ لَا يَحِلُّ لَكُمْ أَن تَرِثُوا۟ ٱلنِّسَآءَ كَرْهًا﴾ النساء ١٩

«O you who believe, it is not lawful for you to inherit women by compulsion.» [2]

Heirs by Oath

A Muslim's legal heirs are his close relatives specified in the *Qurʾān*

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1 Recorded by al-Bukhārī and others.

2 *An-Nisāʾ* 4:19.

and *Sunnah*. One may not add to them by an oath. During *Jāhiliyyah* and the early period of *Islām*, the Muslims used to appoint some non-relatives as their legal heirs (as in the case of the brotherhood instituted between the *Muhājirūn* and the *Anṣār*). Allāh (ﷻ) abrogated this and told them that they may only bequeath some of their property to them:

﴿وَلِكُلٍّ جَعَلْنَا مَوَالِيَ مِمَّا تَرَكَ ٱلْوَالِدَانِ وَٱلْأَقْرَبُونَ، وَٱلَّذِينَ
عَقَدَتْ أَيْمَـٰنُكُمْ فَـَٔاتُوهُمْ نَصِيبَهُمْ. إِنَّ ٱللَّهَ كَانَ عَلَىٰ
كُلِّ شَيْءٍ شَهِيدًا ۝﴾ النساء ٣٣

«And for all, We have made heirs to what is left by parents and relatives. And to those to whom your oaths have bound you: give them their share (as a bequeathal). Indeed, Allāh is a witness over all things.» [1]

Specified Shares

Children and Parents

Allāh (ﷻ) has decreed the shares of a deceased's offspring and parents in the following *āyah*:

﴿يُوصِيكُمُ ٱللَّهُ فِيٓ أَوْلَـٰدِكُمْ، لِلذَّكَرِ مِثْلُ حَظِّ ٱلْأُنثَيَيْنِ، فَإِن كُنَّ
نِسَآءً فَوْقَ ٱثْنَتَيْنِ فَلَهُنَّ ثُلُثَا مَا تَرَكَ، وَإِن كَانَتْ وَٰحِدَةً فَلَهَا
ٱلنِّصْفُ. وَلِأَبَوَيْهِ لِكُلِّ وَٰحِدٍ مِّنْهُمَا ٱلسُّدُسُ مِمَّا تَرَكَ إِن كَانَ
لَهُۥ وَلَدٌ. فَإِن لَّمْ يَكُن لَّهُۥ وَلَدٌ وَوَرِثَهُۥٓ أَبَوَاهُ فَلِأُمِّهِ ٱلثُّلُثُ، فَإِن
كَانَ لَهُۥٓ إِخْوَةٌ فَلِأُمِّهِ ٱلسُّدُسُ، مِنۢ بَعْدِ وَصِيَّةٍ يُوصِي بِهَآ أَوْ
دَيْنٍ. ءَابَآؤُكُمْ وَأَبْنَآؤُكُمْ، لَا تَدْرُونَ أَيُّهُمْ أَقْرَبُ لَكُمْ نَفْعًا.

1 *An-Nisā'* 4:33.

فَرِيضَةً مِّنَ ٱللَّهِۦ إِنَّ ٱللَّهَ كَانَ عَلِيمًا حَكِيمًا ۞﴾ النساء ١١

«Allāh instructs you concerning your children's (inheritance): a male receives a share equal to that of two females. But if they (the children) are only women, and are more than (or equal to) two, their share is two thirds of that which he (the deceased) had left. And if there is only one woman, her share is half (of the estate). And for his parents, each one's share is a sixth of that which he left if he had children. But if he had no children, and the parents inherit from him, the mother's share is one third. And if he had siblings, the mother's share is a sixth. (These distributions should be done) after the payment of any bequeathals that he may have made or debts (that he may have had). Your parents and offspring — you do not know which among them are nearest to you in benefit. (These shares are) an ordainment imposed by Allāh. Indeed, Allāh is Knowing and Wise.» [1]

The *'ulamā'* derive many important instructions from this *āyah*, the most relevant of which to our discussion are the following:

1. The debts and bequeathals are taken out of the estate before dividing the rest among the heirs.

2. A deceased's offspring share in his estate, a son receiving twice as much as a daughter. This is done after taking out any ordained shares.

3. The grandchildren take the position of the children in their absence.

4. If the deceased's offspring are only females (two or more), they receive two-thirds of the estate, which is then equally divided among them.

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1 *An-Nisā'* 4:11.

5. If the deceased is survived by only one daughter, she receives one-half of the estate. If, in addition, there are granddaughters, they share one-sixth, bringing the total for the daughters to two-thirds (as in the previous point). This is further supported by Ibn Masʿūd's explicit *ḥadīth* in this regard (see below).

6. In the presence of children, the parents receive one-sixth each.

7. In the absence of children, if the deceased leaves brothers or sisters — full, paternal, or maternal, then the mother receives one-sixth. The father's share in this case is determined differently (discussed later).

8. In the absence of children and siblings, the mother receives one-third. This "one-third" does not apply to the whole estate, but only to the remaining part of it after taking out any prescribed shares. This is the opinion of ʿUmar, Zayd Bin Thābit, and others among the *ṣaḥābah*, as well as the majority of the *ʿulamāʾ* after them — as will be discussed next chapter.

SPOUSES AND MATERNAL SIBLINGS

The following *āyah* deals with the share in the inheritance of the spouses and maternal siblings:

﴿وَلَكُمْ نِصْفُ مَا تَرَكَ أَزْوَاجُكُمْ إِن لَّمْ يَكُن لَّهُنَّ وَلَدٌ. فَإِن كَانَ
لَهُنَّ وَلَدٌ فَلَكُمُ ٱلرُّبُعُ مِمَّا تَرَكْنَ، مِن بَعْدِ وَصِيَّةٍ يُوصِينَ بِهَا
أَوْ دَيْنٍ. وَلَهُنَّ ٱلرُّبُعُ مِمَّا تَرَكْتُمْ إِن لَّمْ يَكُن لَّكُمْ وَلَدٌ. فَإِن كَانَ
لَكُمْ وَلَدٌ فَلَهُنَّ ٱلثُّمُنُ مِمَّا تَرَكْتُم، مِن بَعْدِ وَصِيَّةٍ تُوصُونَ بِهَآ
أَوْ دَيْنٍ. وَإِن كَانَ رَجُلٌ يُورَثُ كَلَٰلَةً أَوِ ٱمْرَأَةٌ، وَلَهُۥٓ أَخٌ أَوْ أُخْتٌ،
فَلِكُلِّ وَٰحِدٍ مِّنْهُمَا ٱلسُّدُسُ، فَإِن كَانُوٓاْ أَكْثَرَ مِن ذَٰلِكَ فَهُمْ
شُرَكَآءُ فِي ٱلثُّلُثِ، مِن بَعْدِ وَصِيَّةٍ يُوصَىٰ بِهَآ أَوْ دَيْنٍ غَيْرَ

مُضَآرٍّ. وَصِيَّةً مِنَ ٱللَّهِ، وَٱللَّهُ عَلِيمٌ حَلِيمٌ ۞﴾ النساء ١٢

«You receive one half of that which your wives leave if they have no child. If they have a child, you receive one fourth of what they leave — after payment of any bequeathals that they had made or debts (that they had). And they receive one fourth of that which you leave if you have no child. If you have a child, they receive one eighth of what you leave — after payment of any bequeathals that you had made or debts (that you had). If the man or woman whose inheritance is in question has neither ascendents nor descendents, but has a (maternal) brother or sister, each one of them two receives a sixth; and if they were more than two, they share a third — after payment of any bequeathals that had been made or debts (that are owed), and that are not intended to cause harm (to the legal inheritors). This is a commandment from Allāh; and Allāh is ever Knowing and Tolerant.» [1]

Among the instructions that we derive from this *āyah* are the following:

1. A husband receives one-half of his wife's estate if she does not have any offspring — from him or other men, immediate or grandchildren. Otherwise, he receives one-fourth.

2. A wife is a woman who was married to the deceased when he died, or that was divorced by him a non-final (third) time and had not completed her *'iddah* (waiting period). If there are more than one wife (maximum four) for a deceased, their share is divided equally among them.

3. The wives receive one-fourth of their husband's estate if he does not have any offspring — from them or other women, immediate

1 *An-Nisā'* 4:12.

or grandchildren. Otherwise, they receive one-eighth.

4. There is a consensus among the *'ulamā'* that the brothers and sisters mentioned in this *āyah* are the maternal siblings, because the shares of the other siblings are mentioned in the *āyah* at the end of *Sūrat an-Nisā'* (4:176).

5. The shares of males and females of the same rank (brother and sisters, uncles and aunts, sons and daughters, etc.) are such that a male receives twice as much as a female.

6. The maternal siblings are the only exception to the above rule. If there is only one maternal sibling, he (or she) receives one-sixth. If there are two or more, they share one-third.

Full and Paternal Siblings

When a deceased does not have branch (offspring and below) or origin (fathers and above) heirs, his inheritance is called *kalālah*, which means "borders or margins". It is thus named because the only possible heirs for such a person are his margin relatives — instead of the origin and branch heirs.

The *kalālah* case for a deceased who is only survived by maternal siblings has been dealt with in the previous *āyah* (*an-Nisā'* 4:12). The following *āyah* deals with the *kalālah* for one who is survived by paternal or full siblings:

﴿يَسْتَفْتُونَكَ، قُلِ ٱللَّهُ يُفْتِيكُمْ فِي ٱلْكَلَٰلَةِ، إِنِ ٱمْرُؤٌاْ هَلَكَ لَيْسَ
لَهُ وَلَدٌ، وَلَهُ أُخْتٌ، فَلَهَا نِصْفُ مَا تَرَكَ، وَهُوَ يَرِثُهَآ إِن لَّمْ يَكُن
لَّهَا وَلَدٌ. فَإِن كَانَتَا ٱثْنَتَيْنِ فَلَهُمَا ٱلثُّلُثَانِ مِمَّا تَرَكَ، وَإِن كَانُوٓاْ
إِخْوَةً رِجَالاً وَنِسَآءً فَلِلذَّكَرِ مِثْلُ حَظِّ ٱلأُنثَيَيْنِ. يُبَيِّنُ ٱللَّهُ لَكُمْ
أَن تَضِلُّواْ، وَٱللَّهُ بِكُلِّ شَيْءٍ عَلِيمٌ ۝﴾ النساء ١٧٦

«They ask you for a legal ruling. Say, "Allāh gives you a ruling concerning *kalālah* (leaving neither

descendents nor ascendents). If it is a man that dies leaving no child but only a sister, she receives half of what (estate) he left. And he inherits her (completely) if she (dies first and) has no child. But if they are two sisters, they receive two-thirds of what he left. And if they are both brothers and sisters, a male receives the share of two females. Thus does Allāh make clear to you (His laws) lest you go astray. Allāh is All-Knower of all things.» [1]

This *āyah* indicates that if a deceased leaves only paternal or full siblings, it will be one of the following cases:

1. If there is only one sister, she receives half of the estate.

2. If there are two or more sisters, two-thirds of the estate is divided equally among them.

3. If there is only one brother, he receives all of the estate.

4. If there are mixed brothers and sisters, the whole estate is divided among them, giving a male twice as much as a female. [2]

DAUGHTER, GRAND-DAUGHTER, AND SISTER

ʿAbdullāh Bin Masʿūd (ﷺ) was once asked in regard to the inheritance of a daughter, granddaughter, and sister (surviving a deceased). He said, "My judgement in this case is that of Allāh's Messenger (ﷺ):

«للابنةِ النِّصفُ، ولابنةِ الابْنِ السُّدُسُ، وما بَقِيَ فللأُختِ.»

‹The daughter's share is one-half, that of the son's

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1 *An-Nisāʾ* 4:176.

2 Among the explanations given by the scholars regarding this male/female ratio is that a male is usually responsible for the financial support of the household, and needs a larger share for that purpose, whereas a female's share is mostly saved or invested for her personal benefit.

daughter is one-sixth, and whatever remains is for the sister.›" [1]

NEAREST MALE

After giving the heirs with prescribed shares their portions, anything remaining after that is given to the nearest male to the deceased — or divided among those who are equally near.

Ibn ʿAbbās (ﷺ) reported that Allāh's Messenger (ﷺ) said:

«أقسِموا المال بين أهل الفرائض على كتاب اللّهِ، فما تركتِ الفرائضُ فلأولى رجلٍ ذكرٍ.»

‹Divide the wealth among the heirs with prescribed shares, according to Allāh's Book. Whatever is left after that, (give it) to the nearest male person (to the deceased).› [2]

In another report, Ibn ʿAbbās (ﷺ) reported that Allāh's Messenger (ﷺ) said:

«ألحِقوا الفرائض بأهلِها، فما بقيَ فلأولى رجلٍ ذكرٍ.»

‹Give the ordained shares to their rightful heirs. Whatever is left after that, (give it) to the nearest male person (to the deceased).› [3]

Non-Standard Heirs

In the absence of standard legal heirs, the inheritance goes to other relatives who are further away from the deceased. If the deceased has absolutely no relatives, the *Islām*ic state takes the entire estate.

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1 Recorded by al-Bukhārī and others.

2 Recorded by Muslim, Abū Dāwūd, and Ibn Mājah.

3 Recorded by al-Bukhārī, Muslim, and others.

MATERNAL UNCLE, AND THE *ISLĀMIC* STATE

The following *ḥadīths* indicate that a *khāl* (maternal uncle) becomes an heir for a deceased who has no standard heirs. If that is not an option, the estate goes to the state.

'Umar (ﷺ) reported that Allāh's Messenger (ﷺ) said:

«اللّٰهُ ورسوله مولى من لا مولى له، والخال وارث من لا وارث له.»

‹Allāh and His Messenger are the guardians of the one who does not have a guardian; and a maternal uncle inherits from the one who does not have any (closer) heirs.› [1]

Al-Miqdām (ﷺ) reported that Allāh's Messenger (ﷺ) said:

«أنا وارثُ من لا وارث له، أَفُكُّ عانيَه وأرثُ ماله،
والخالُ وارثُ من لا وارث له، يفُكُّ عانيَه ويرثُ ماله.»

‹I am the heir of anyone who has no heir. I fulfill his obligations and inherit his wealth. And a maternal uncle is the heir of anyone who has no heir. He fulfills his obligations and inherits his wealth.› [2]

Al-Miqdām (ﷺ) also reported that Allāh's Messenger (ﷺ) said:

«أنا أولى بكل مؤمن من نفسه، فمن ترك ديناً أو ضيعةً
فإليّ، ومن ترك مالاً فلورَثته. وأنا مولى من لا مولى له،
أرثُ ماله وأفُكُّ عانيَه. والخال مولى من لا مولى له، يرث
ماله ويعقِلُ عنه.»

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1 Recorded by at-Tirmithī and Ibn Mājah. Verified to be authentic by al-Albānī (*Irwā' ul-Ghalīl* no. 1700).

2 Recorded by Abū Dāwūd, al-Ḥākim, and others. Verified to be authentic by al-Albānī (*Irwā' ul-Ghalīl* no. 1700).

‹I have more right to every believer than himself. Whoever leaves a debt or dependents, it is upon me (to take care of them); and whoever leaves wealth, it is for his heirs. I am the guardian of one who has no guardian, I inherit his wealth and fulfill his obligations. And a maternal uncle is a guardian for one who has no guardian. He inherits his wealth and fulfills his obligations.› [1]

'Ā'ishah, Abū ad-Dardā', and Abū Hurayrah (ﷺ) reported that Allāh's Messenger (ﷺ) said:

«الخال وارث من لا وارث له.»

‹The maternal uncle inherits from those who have no (standard) heirs.› [2]

Abū Karīmah (ﷺ) reported that Allāh's Messenger (ﷺ) said:

«من تركَ مالاً فلورثته، ومن ترك كلاًّ فإلى اللّٰه
ورسوله. وأنا وارث من لا وارث له، أعقل عنه وأرثه.
والخال وارث من لا وارثَ له، يعقِلُ عنه ويرثُه.»

‹Whoever leaves wealth, it is for his heirs; and whoever leaves dependents, it is upon Allāh and His Messenger (to take care of them). I am heir for one who has no heir. I fulfill his obligations and inherit him. And a maternal uncle is heir for one who has no heir. He fulfills his obligations and inherits him.› [3]

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1 Recorded by Abū Dāwūd and others. Verified to be *ḥasan* by al-Albānī (*Irwā'ul-Ghalīl* no. 1700).

2 Recorded by at-Tirmiṯhī and others. Verified to be authentic by al-Albānī (*Irwā'ul-Ghalīl* no. 1700 and *aṣ-Ṣaḥīḥah* no. 1848).

3 Recorded by Aḥmad and Ibn Mājah. Verified to be *ḥasan* by al-Albānī (*Irwā'ul-Ghalīl* no. 1698).

A SISTER'S SON

Anas (ﷺ) reported that once the Prophet (ﷺ) summoned the *Anṣār*. When they all came he said, «هل فيكم أحد غيركم؟» **‹Is there anyone else beside those who are present?›** They replied, "No, except the son of a sister of ours." He (ﷺ) then said:

«ابن أخت القوم منهم.»

‹The son of a family's sister is one of them.› [1]

This is taken as evidence that, in the absence of relatives who are closer to the deceased, a nephew from the sister's side may inherit.

Special Individuals

The following are individuals who are dealt with in a special way in matters of inheritance.

THE PROPHET

No portions of the wealth left by the Prophet (ﷺ) could be inherited by his relatives after him. What he left became a property of the *Islām*ic state.

Once al-ʿAbbās and ʿAlī (ﷺ) went to ʿUmar (ﷺ). In his presence, there were Ṭalḥah, az-Zubayr, ʿAbd ur-Raḥmān Bin ʿAwf, and Saʿd Bin Abī Waqqāṣ (ﷺ). They were arguing, and ʿUmar told them, "Didn't you know that Allāh's Messenger (ﷺ) said:

«كل مال النبي صدقة، إلا ما أطعمه أهله وكساهم. وإنا لا نورَث.»

‹All of the Prophet's wealth is charity, except for that which he feeds or clothes to his family. And we (prophets) cannot be inherited.›?"

1 Recorded by al-Bukhārī, Muslim, and others.

They replied, "Yes!" He said, "Allāh's Messenger (ﷺ) used to spend of his wealth on his family, and give away the remainder as charity. When he (ﷺ) passed away, Abū Bakr was in charge, and he did as Allāh's Messenger (ﷺ) used to do." [1]

Abū Bakr (رضي الله عنه) reported that Allāh's Messenger (ﷺ) said:

«إن اللّه إذا أطعم نبياً طُعمةً فهي للذي يقوم من بعده.»

‹Verily, when Allāh grants something to a prophet, it goes to the one who becomes in charge after him.› [2]

Ḥuthayfah (رضي الله عنه) reported that Allāh's Messenger (ﷺ) said:

«النبي لا يُورَث.»

‹A prophet may not be inherited.› [3]

Also Abū Bakr (رضي الله عنه) reported that Allāh's Messenger (ﷺ) said:

«لا نورَثُ، ما تركنا صدقة. وإنما يأكلُ آلُ محمدٍ في هذا المالِ.»

‹We (prophets) may not be inherited. Whatever we leave is charity. The family of Muḥammad may only eat from this wealth.› [4]

'Ā'ishah (رضي الله عنها) reported that Allāh's Messenger (ﷺ) said:

«لا نورَثُ، ما تركنا فهو صدقة. وإنما هذا المالُ لآلِ محمد

1 Recorded by Abū Dāwūd, and at-Tirmithī (in *ash-Shamā'il*). Verified to be *ḥasan* by al-Albānī (*aṣ-Ṣaḥīḥah* no. 2038).

2 Recorded by Ibn Mājah. Verified to be authentic by al-Albānī (*Irwā' ul-Ghalīl* no. 1241).

3 Recorded by Abū Ya'lā. Verified to be authentic by al-Albānī (*Ṣaḥīḥ ul-Jāmi'* no. 6799).

4 Recorded by al-Bukhārī, Muslim, and others.

لنائبتِهم ولضيفهم. فإذا متُّ فهو إلى وليّ الأمر من بعدي.»

‹We (prophets) may not be inherited. Whatever we leave is charity. This wealth can only be used by the family of Muḥammad for their needs and guests. When I die, it goes to the one who will be in charge after me.› [1]

Abū Hurayrah (ﷺ) reported that Allāh's Messenger (ﷺ) said:

«لا تقتسم ذريتي ديناراً. ما تركتُ بعد نفقةِ نسائي

ومؤونةِ عاملي فهو صدقة.»

‹My offspring may not divide even one *dīnār* (of my inheritance) after me. After my wives' support, and my representative's expenses, everything that I leave will be charity.› [2]

A Fetus

When someone passes away, it is possible that one or more of the related women are pregnant, and the children they bear could be heirs after birth. Ex., if the deceased's wife is pregnant, the child in her womb could be a major heir. The condition for a fetus to inherit is that it is born alive — even for a brief moment.

Abū Hurayrah (ﷺ) reported that Allāh's Messenger (ﷺ) said:

«إذا استهل المولود وَرِث.»

‹As soon as a baby cries (at birth), it inherits.› [3]

1 Recorded by Abū Dāwūd. Verified to be *ḥasan* by al-Albānī (*aṣ-Ṣaḥīḥah* no. 2038).

2 Recorded by al-Bukhārī, Muslim, and others.

3 Recorded by Abū Dāwūd and al-Bayhaqī. Verified to be authentic by al-Albānī (*Irwā'ul-Ghalīl* no. 1707).

A CHILD OF *ZINĀ*

Ibn ʿUmar (ﷺ) reported that Allāh's Messenger (ﷺ) said:

«أيُّما رجلٍ عاهَرَ بحُرَّةٍ أو أمةٍ، فالولد ولد زناً، لا يرثُ ولا يورَّث.»

> **‹Whichever man commits *zinā* with a free or slave woman, the child (that she bears) is a child of *zinā*. It neither inherits (from him) nor gives him inheritance.›** [1].

ʿĀ'ishah, Abū Hurayrah, and other *ṣaḥābah* (ﷺ) reported that Allāh's Messenger (ﷺ) said:

«الولد للفراش، وللعاهر الحَجَر.»

> **‹A child belongs to the mattress (where it was born), and the one who committed adultery receives the stones (as punishment).›** [2]

ʿAbdullāh Bin ʿAmr (ﷺ) reported that Allāh's Messenger (ﷺ) said:

«كل مُستلحَق بعد أبيه الذي يدعى له، أدَّعاه ورثته مِن بعدِه، مَن كان من أمةٍ يملكُها يوم أصابها، فقد لحِق بمن استلحَقَه، وليس له فيما قُسِمَ قبلَه من الميراث شيءٌ، وما أدركَ من ميراثٍ لم يُقسَمْ فله نصيبُه. ولا يُلحقُ إذا كان أبوه الذي يُدعى له أنكره. وإن كان من أمةٍ لا يملكها أو من حرةٍ عاهَرَ بها، فإنه لا يَلحَقُ ولا يُورَث، وإن كان الذي يُدعى له هو أدّعاه، فهو ولد زناً لأهلِ

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1 Recorded by at-Tirmiṯhī. Verified to be authentic by al-Albānī (*Ṣaḥīḥ ul-Jāmiʿ* no. 2723).

2 Recorded by al-Bukhārī, Muslim, and others.

أمّه مَن كانوا، حرةً أو أمة.»

‹For an annexed individual, after the death of his father to whom he was attributed, and if the heirs claim him after him, (he has the following cases):

1) **If he was from a slave woman whom he (the deceased) owned when he had intercourse with her, he should be annexed to him. But he receives no share of what had already been divided of the inheritance (before his approval). He only receives his share of whatever has not yet been divided (when he is approved).**

2) **If the father to whom he is attributed denies him, he may not be annexed to him.**

3) **If he was from a slave woman whom he (the deceased) did not own, or from a free woman with whom he committed *zinā*, then he is a child of *zinā* who should be attributed in either case to his mother's family. And he may not be annexed (to the deceased), nor may he inherit from him — even if he claimed him to be his.›** [1]

Child of a Pregnant Slave Woman

It is not permissible to have intercourse with a pregnant woman who is a captive of war, because that would lead to a confusion in the lineage of the baby, which would reflect on inheritance and other matters.

Abū ad-Dardā' (ﷺ) reported that Allāh's Messenger (ﷺ) passed by a pregnant woman (from the captives) standing by a tent's entrance (after a battle). He exclaimed, «لعله يريد أن يُلِمَّ بها؟» **‹Perhaps he (her master) plans to have intercourse with her?›** He was told, "Yes." He

1 Recorded by Ibn Mājah. Verified to be *ḥasan* by al-Albānī (*Ṣaḥīḥ ul-Jāmiʿ* no. 4549).

said:

«لقد هممتُ أن ألعَنَه لَعْناً يدخلُ معهُ قَبرَه. كيف يورِّثه
وهو لا يحل له؟ كيف يستخدمه وهو لا يحل له؟»

‹I was about to curse him a curse that would enter with him into his grave! How could he make it (the baby) an heir when it is not permissible for him (to claim it as his own child)? Or how could he employ him (as a slave) when it is not permissible for him (to enslave him if he was his own child)?› [1]

A KILLER

A killer may not inherit anything from the one whom he killed — whether the killing was intended or voluntary.

Abū Hurayrah (رضي الله عنه) reported that Allāh's Messenger (ﷺ) said:

«القاتلُ لا يرثُ.»

‹A killer does not inherit (from the victim).› [2]

One of the *ṣaḥābah* (رضي الله عنه) reported that Allāh's Messenger (ﷺ) said:

«ليس لقاتلٍ ميراثٌ.»

‹A killer does not receive (a share of the) inheritance.› [3]

ʿAbdullāh Bin ʿAmr (رضي الله عنه) reported that Allāh's Messenger (ﷺ) said:

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1 Recorded by Muslim and others.

2 Recorded by at-Tirmiṯẖī and Ibn Mājah. Verified to be authentic by al-Albānī (*Irwā' ul-Ghalīl* no. 1671,1672).

3 Recorded by Ibn Mājah. Verified to be authentic by al-Albānī (*Irwā' ul-Ghalīl* no. 1671).

«ليس للقاتل شيءٌ. وإن لم يكن له وارثٌ، فوارثُه أقربُ الناس إليه. ولا يرثُ القاتل شيئاً.»

‹A killer does not receive any part (of the inheritance). If he (the victim) has no (standard) heirs, his inheritor will be the nearest (of kin) to him, and the killer does not inherit anything.› [1]

In another report, ʿAbdullāh Bin ʿAmr (ﷺ) said that Allāh's Messenger (ﷺ) said:

«ليس للقاتل من الميراث شيءٌ.»

‹A killer does not receive any part of the inheritance.› [2]

NON-MUSLIMS

Regardless of how closely related to the deceased they might be, non-Muslims cannot be legal heirs for their Muslim relatives. The only way they may inherit is through a bequeathal that does not exceed one-third of the estate.

Usāmah, Jābir, and Ibn ʿAmr (ﷺ) reported that Allāh's Messenger (ﷺ) said:

«لا يتوارثُ أهلُ مِلّتين شتّى.»

‹The followers of two different religions may not inherit from each other.› [3]

Usāmah (ﷺ) reported that Allāh's Messenger (ﷺ) said:

1 Recorded by Abū Dāwūd. Verified to be *ḥasan* by al-Albānī (*Irwā' ul-Ghalīl* no. 1671).

2 Recorded by al-Bayhaqī. Verified to be authentic by al-Albānī (*Irwā' ul-Ghalīl* no. 1671).

3 Recorded by Abū Dāwūd, an-Nasā'ī, and others. Verified to be authentic by al-Albānī (*Irwā' ul-Ghalīl* no. 1675).

«لا يرثُ الكافرُ المسلمَ، ولا المُسلمُ الكافرَ.»

‹A *kāfir* cannot inherit a Muslim, nor a Muslim a *kāfir*.› [1]

Additional Considerations

In what follows, we include a few additional matters related to inheritance that have no part in the previous sections.

ALLOCATIONS PRIOR TO *ISLĀM*

Allocations made prior to *Islām* may not be revoked, because revoking them would result in chaos beyond possible control.

Ibn ʿAbbās (ﷺ) reported that Allāh's Messenger (ﷺ) said:

«كلُّ قِسمٍ قُسِمَ في الجاهلية فهو على ما قُسِم.
وكلُّ قِسمٍ أدركه الإسلامُ فهو على قَسْمِ الإسلام.»

‹Every division (of inheritance) that was made in the *Jāhiliyyah* stays according to the way it was divided. And every division that reached *Islām* should be made according to *Islām*.› [2]

Ibn ʿUmar (ﷺ) reported that Allāh's Messenger (ﷺ) said:

«ما كان من ميراثٍ قُسِم في الجاهلية، فهو على قِسمةِ الجاهلية. وما كان من ميراثٍ أدركه الإسلام، فهو على قسمة الإسلام.»

‹Any inheritance that was divided during *Jāhiliyyah*

1 Recorded by al-Bukhārī, Muslim, and others.

2 Recorded by Abū Dāwūd and Ibn Mājah. Verified to be authentic by al-Albānī (*Irwā'ul-Ghalīl* no. 1717).

should remain according to the division of *Jāhiliyyah*. And any inheritance with which *Islām* has caught up, it should be divided according to *Islām*.› [1]

No Bequest to Legal Heirs

As mentioned in the previous chapter, one may not bequeath any part of his estate to legal heirs. The only part that they may receive of the estate is that allotted to them according to the law of inheritance.

Anas and Abū Umāmah (ﷺ) reported that Allāh's Messenger (ﷺ) said:

«إن اللّه قد أعطى كل ذي حق حقه، فلا وصية لوارث.»

‹Verily, Allāh has given to everyone who has a right his due right. Thus, no bequeathal may be made to a (legal) heir.› [2]

Regaining Earlier Charity

There is nothing wrong with an heir regaining with the inheritance a gift or charity that he had previously given to the deceased.

Buraydah (ﷺ) reported that a woman came to the Prophet (ﷺ) and said, "O Allāh's Messenger! I gave a slave girl as *ṣadaqah* to my mother. My mother then died, and the slave girl came back to me with the inheritance!" He said:

«قد آجركِ ٱللّهُ، وردَّ عليكِ في الميراث.»

‹Verily, Allāh has rewarded you (for your charity), and has given you back your slave girl as part of the inheritance.›

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1 Recorded by Ibn Mājah. Verified to be authentic by al-Albānī (*Irwā' ul-Ghalīl* no. 1717).

2 Recorded by Ibn Mājah, Aḥmad, and others. Verified to be authentic by al-Albānī (*Irwā' ul-Ghalīl* no. 1413, 1655).

She continued, "Also, my mother died without performing *ḥajj*. May I perform it on her behalf?" He said, «نَعم.» ‹**Yes!**› She asked, "My mother also had one month's fasting (that she was not able to fulfill). Does it help her that I fast on her behalf?" He said, «نَعم.» ‹**Yes!**› [1]

Giving Charity While Dividing the Inheritance

If needy and poor people happen to be present at the time of dividing the estate, they should be given out of the property and treated with kindness, as Allāh (ﷻ) says:

﴿وَإِذَا حَضَرَ ٱلْقِسْمَةَ أُوْلُوا۟ ٱلْقُرْبَىٰ وَٱلْيَتَـٰمَىٰ وَٱلْمَسَـٰكِينُ فَٱرْزُقُوهُم مِّنْهُ وَقُولُوا۟ لَهُمْ قَوْلًا مَّعْرُوفًا ۝﴾ النساء ٨

> **«And when the relatives and the orphans and the poor attend the division, give them out of it (the property), and speak to them words of kindness and justice.»** [2]

1 Recorded by Aḥmad, Muslim, and others.

2 *An-Nisā'* 4:8.

CHAPTER 4

THE *ISLĀMIC* LAW OF INHERITANCE

Introduction

In the previous chapter, we presented texts from the *Qur'ān* and authentic *Sunnah* that provide the basis for deriving the rules of the law of inheritance. In this chapter, we only present the rules and guidelines, without much reference to the texts, as we feel that we have provided sufficient explanation in their regard.

This chapter concisely covers the major aspects of the law of inheritance. We employ tables and diagrams to reduce space and present the material in a manner that should be more comprehensible to the readers.

Despite the fact that slavery does not exist in our time, we have elected to include slavery-related issues in our discussion of the law of inheritance. This has several reasons; most importantly for the sake of completeness, and to enable the reader to understand some issues related to that when he comes across them in the *Islām*ic literature.

We have followed many of the concepts by illustrative examples to clarify them. However, we have reserved the next chapter for extensive examples and case studies.

Warning Concerning Weak Reports

Books on the subject of inheritance commonly start with a citation of a number of *ḥadīth*s expressing the importance of this subject. There is no doubt as to the great importance of the subject, because it sets a clear methodology for passing down the worldly wealth from predecessors to successors. Because of this, we saw in the previous *chapter that Allāh (ﷻ) has rationalized it in His Book and in the Sunnah* of His Messenger (ﷺ).

However, it is important to note that the commonly cited *ḥadīth*s

are weak and should be avoided. This refers in particular to the following:

1) The report from ʿAbdullāh Bin ʿAmr (ﷺ) that the Prophet (ﷺ) said, "Knowledge is of three types, and anything beyond that is unnecessary: a clear *āyah*, an established *sunnah*, or a just rule (of inheritance)." [1]

2) The report from Abū Hurayrah (ﷺ) that the Prophet (ﷺ) said, "Learn the *Qurʾān* and the rules of inheritance, and teach them to the people, because I will surely be taken away (by death)." [2]

3) The report from ʿAbdullāh Bin Masʿūd (ﷺ) that the Prophet (ﷺ) said, "Learn the knowledge and teach it to the people; learn the rules of inheritance and teach them to the people; learn the *Qurʾān* and teach it to the people. Verily, I will be taken away (by death), the knowledge will be taken away, and tribulations will become paramount — so that when two people differ about a rule of inheritance they will not find anyone to arbitrate between them." [3]

Definitions

ʿILM UL-FARĀʾIḌ

The *Islām*ic law of inheritance is called *ʿilm ul-farāʾiḍ*, or "the subject of the injunctions (concerning inheritance)". It involves knowing the rules for dividing the inheritance and distributing it so that each of the heirs receives his proper share.

1 Recorded by Abū Dāwūd and Ibn Mājah. Verified to be weak by al-Albānī (*Ḍaʿīf ul-Jāmiʿ* no. 3871).

2 Recorded by at-Tirmiḏhī and Ibn Mājah. Verified to be weak by al-Albānī (*Ḍaʿīf ul-Jāmiʿ* no. 2450).

3 Recorded by ad-Dārimī and others. Verified to be weak by al-Albānī (*Irwāʾ ul-Ghalīl* no. 1664).

DIFFERENCE IN UNDERSTANDING

It is important to realize that, like any other knowledge or specialty, the scholars vary in their understanding of this subject. Even the *ṣaḥābah* (ﷺ) varied in this regard, and the Prophet (ﷺ) indicated that the most knowledgeable among them in *farā'iḍ* is Zayd Bin Thābit (ﷺ).

Anas Bin Mālik (ﷺ) reported that Allāh's Messenger (ﷺ) said:

«أرحمُ أمتي بأمتي أبو بكر، وأشدُّهم في أمر اللّه عمر،
وأصدقُهم حياءً عثمانُ، وأقرؤهم لكتاب اللّه أبيٌّ بنُ كعب،
وأفرضُهم زيدُ بنُ ثابت، وأعلمهم بالحلال والحرام معاذ بنُ جبل،
ولكل أمة أمين، وأمين هذه الأمة أبو عبيدةَ بنُ الجراح.»

‹Of my *Ummah*, the most compassionate toward my *Ummah* is Abū Bakr, the firmest in regard to Allāh's commands is 'Umar, the most true in his *ḥayā'* [1] is 'Uthmān, the best in reciting Allāh's Book is Ubayy Bin Ka'b, the best in *farā'iḍ* is Zayd Bin Thābit, and the most knowledgeable about matters of *ḥalāl* and *ḥarām* is Mu'āth Bin Jabal. Moreover, every nation has a trustworthy one, and the one who is (most) trustworthy of this *Ummah* is Abū 'Ubaydah Bin al-Jarrāḥ.› [2]

PILLARS AND CONDITIONS FOR INHERITANCE

For inheritance to take place, it must have the following three pillars, together with the corresponding conditions for each:

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1 Usually translated as "shyness" or "poverty", it rather means shying away from disobedience and sinning.

2 Recorded by an-Nasā'ī, at-Tirmithī, and others. Verified to be authentic by al-Albānī (*aṣ-Ṣaḥīḥah* no. 1224).

	Pillar	Explanation and Conditions
1	The deceased	This is the person who died leaving the estate. His (or her) death (or its equivalent, such as for a missing person) must be established.
2	The heirs	They are the persons who survive the deceased (even for a brief moment), are related to him (or her) by one of the ties of inheritance [1], and there is no obstructors [2] to their heirship.
3	The estate	This is the deceased's wealth, property, or other things that count as wealth and can be passed down, such as copyrights, right to build on a land, etc. The rules of inheritance are applied only after payment of the following portions from the deceased's estate: 1) All funeral-related costs. 2) The deceased's debts. 3) Any bequest made by the deceased for up to one third of the estate.

TIES OF INHERITANCE

A person would be a likely heir if he (or she) is related to the deceased by one of the following three types of relationships:

	Relationship	Explanation
1	Blood	This includes the offspring, parents, siblings, uncles, cousins, etc.
2	Marriage	This refers to existing marriages at the time of death. A divorced woman, however, would inherit from her husband if her divorce was not the final (third) one, and she had not completed her waiting period (ʿ*iddah*) when he died.

1 Defined below.

2 Defined below.

	Relationship	Explanation
3	*Walā'*	This is the relationship between a person and a slave that he emancipated. The inheritance is one-way, whereby the master may inherits from the emancipated slave, but not vice versa.

In the next section, we provide details regarding these ties.

INHERITANCE OBSTRUCTORS

A person who would normally be an heir is denied heirship in any of the following situations:

	Obstructor	Explanation
1	Slavery	A slave and his property are considered to belong to the master. Therefore, he may not inherit or give inheritance.
2	Killing	A killer who kills a person from whom he would normally inherit is denied the inheritance, whether the killing was deliberate or involuntary.
3	Difference of Religion	Two related persons with different religions may not inherit from each other (except by bequeathal), such as a Muslim child of a *kāfir* parent, or a Muslim man married to a Christian woman.

The Heirs

In what follows we mention the different relatives, men and women, who may inherit from a deceased.

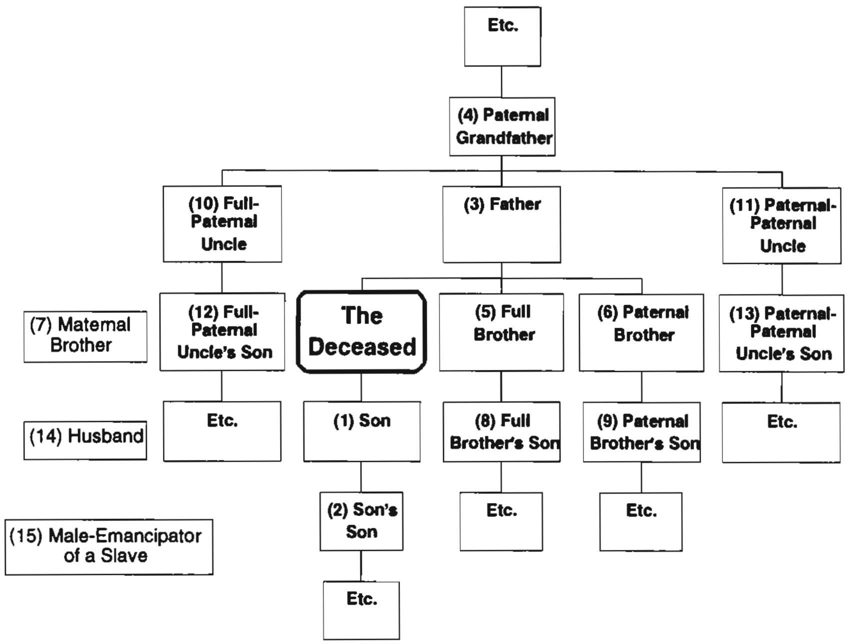
MALE HEIRS

The possible male heirs are fifteen relatives as follows (review the

chart below):

#	**Male's Relationship to the Deceased**
1	Son.
2	Son's son, and further down by mere male lineage.
3	Father.
4	Father's father, and further up by mere male lineage.
5	Full brother (from both parents).
6	Paternal brother (from the father only).
7	Maternal brother (from the mother only).
8	Full brother's son, and further down by mere male lineage.
9	Paternal brother's son, and further down by mere male lineage.
10	Full-paternal uncle (father's full brother).
11	Paternal-paternal uncle (a father's paternal brother).
12	Full-paternal uncle's son, and further down by mere male lineage.
13	Paternal-paternal uncle's son, and further down by mere male lineage.
14	Husband.
15	Male emancipator (of a slave).

MALE HEIRS



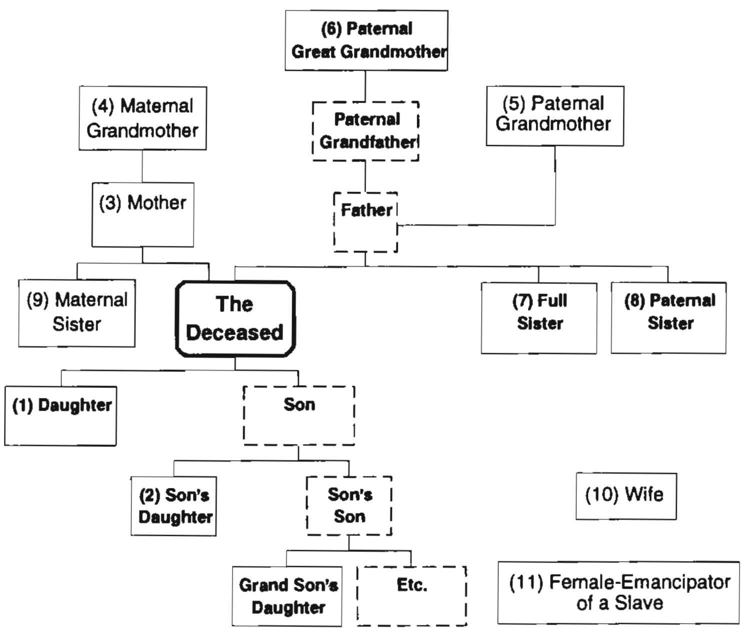
FEMALE HEIRS

The possible female heirs are eleven relatives as follows (review the chart below):

#	Female's Relationship to the Deceased
1	Daughter.
2	Son's daughter, and further down by mere male lineage.
3	Mother.
4	Maternal grandmother, and further up by mere female lineage.
5	Paternal grandmother, and further up by mere female lineage.

#	**Female's Relationship to the Deceased**
6	Paternal great grandmother, and further up by mere female lineage.
7	Full sister.
8	Paternal sister.
9	Maternal sister.
10	Wife.
11	Female emancipator (of a slave).

FEMALE HEIRS



It is important to note that, in the case of female heirs, the inheritance stops at them and does not move on to their children as in the case of male heirs.

TYPES OF HEIRS

Heirs are classified, in accordance with their relationship to the deceased, into three types:

1. **Branch Heirs**. The branch (or stirps) heirs (BH) are the deceased's offspring, their offspring, and so on.

2. **Origin Heirs**. The origin heirs (OH) are either male (father, grandfather, etc.), or female (mother and grandmothers).

3. **The Margins**. The margins include the father's branches (the deceased's brothers and sisters) and the grandfather's branches (the deceased's paternal uncles).

Prescribed Shares

The prescribed shares (*furūḍ*; singular: *farḍ*) are the specific allocations determined in the *Qur'ān* or *Sunnah*. They are one-half, one-third, one-fourth, one-sixth, one-eighth, and two-thirds. They hold for various individuals based on the fulfillment of certain conditions. In what follows we describe the situations where these ratios are applicable.

ABBREVIATIONS

For the sake of reducing the size of the share-table below, and to limit repetitious terms, we define the following abbreviations:

Abbr.	**Explanation**
U	The heir is <u>u</u>nique (no other similar individuals) in his or her class of relationship to the deceased.
BH	The deceased has <u>b</u>ranch-<u>h</u>eirs.
MOH	The deceased has <u>m</u>ale <u>o</u>rigin-<u>h</u>eirs.

Abbr.	Explanation
PA	The heir has a paternal associate (*ʿāṣib*), such as a daughter's brother, or a granddaughter's male cousin.
HBH	The heir has higher-ranking branch-heirs.
FS	The deceased has full siblings (brothers or sisters).
2MS	The deceased has two or more siblings (brothers and/or sisters) — half or full.
Fa	The father survives the deceased.
Mo	The mother survives the deceased.

TABLE OF SHARES

In the following table, we use the abbreviations from the previous sub-section. In order for an individual to receive a particular share, the required conditions for him (or her) are marked with "y" (yes) or "n" (no). Ex., for a daughter to receive ½ of the estate, U and not(PA) must hold, which means that she should be the only daughter, and she should not have any brothers to cause *taʿṣīb*.

All of the conditions marked for a specific individual must hold simultaneously. The only exception is when the mother receives 1/6, as indicated in the following sub-section. Additional non-common conditions for some individuals are also indicated after the table.

x/y	Individual	Conditions									
		U	BH	MOH	PA	HBH	FS	Fa	Mo	2MS	Notes
½	Husband		n								1
	𝒟	y			n						
	Son's 𝒟	y			n	n					
	F. sister	y	n	n	n						

x/y	Individual	Conditions									
		U	BH	MOH	PA	HBH	FS	Fa	Mo	2MS	Notes
	P. sister	y	n	n	n		n				
¼	Husband		y								
	Wives		n								2
⅛	Wives		y								2
⅔	𝒟s	n			n						2
	Sons' 𝒟s	n			n	n					2
	F. sisters	n	n	n	n						2
	P. sisters	n	n	n	n		n				2
⅓	Mother		n							n	3
	M. siblings	n	n	n							2,4
1/6	Father		y								
	Mother		y							y	5
	P. Gfather		y					n			6
	Gmothers								n		2,7
	Sons' 𝒟s				n						2,8
	P. sisters				n						2,9
	M. sibling	y	n	n							

Symbols: F = full, P = paternal, M = maternal, O = offspring, 𝒟 = daughter, G = grand

Notes and Additional Conditions

1. The only case that there would be more than one (½) share is for a husband with one sister.

2. The share for 2 or more of the same class (wives, daughters, etc.) is equally divided among them.

3. A special case is when, in addition to the mother, the deceased is survived by a father and a spouse. In such case the mother receives ⅓ of the remainder. This case will be discussed in detail later.

4. Maternal siblings have the following specific properties:
   1) Both their males and females receive equal shares of the ⅓.
   2) They cause their mother's share to drop from ⅓ to 1/6.

5. Only one of the two conditions must hold for the mother to receive 1/6.

6. A grandfather may be an heir provided that there is no female link between him and the deceased. Thus, a mother's father, for example, cannot be an heir. The mother of such a grandfather cannot be an heir either.

   The scholars have two different opinions regarding the grandfather's share:

   a) He takes the position of the father in his absence. In such a case, he would cut off heirship the deceased's full and paternal siblings. This is the opinion that we accept.

   b) The grandfather shares with the deceased's full and paternal siblings.

7. Also, there should not be a nearer grandmother surviving the deceased.

8. Also, one of the heirs must be a higher daughter or son's daughter inheriting ½. The reason for this is that, in the absence of brothers, a deceased's daughters receive ⅔ of the estate. If, however, the deceased had left only one daughter in addition to sons' daughters — all without *'āṣib*s (brothers), the daughter receives ½, and the granddaughters share 1/6, so that the total would be ⅔.

9. Also, one of the heirs must be a full sister inheriting ½. This is similar to the previous case.

Taʿṣīb

Inheritance reaches an heir via two routes, *farḍ* (prescription) or *taʿṣīb*. The *taʿṣīb*'s portion of the inheritance has no prescribed ratio. It could be large, small, or even null — depending on the *farḍ* amounts (see previous section).

Taʿṣīb derives from *ʿuṣbah*, which means "clan; paternal relations; agnates". An individual inheriting through *taʿṣīb* is called *ʿāṣib*.

Thus, *ʿuṣbah* arises from kinship relationships. This has three forms: independent *ʿuṣbah*, *ʿuṣbah* by association, and *ʿuṣbah* by joining with others. These forms of *ʿuṣbah* are explained in the following sub-sections.

INDEPENDENT *ʿUṢBAH*

Independent *ʿuṣbah* applies to all of the male heirs that were mentioned earlier, except for the husband and maternal brother.

An independent *ʿāṣib* may have one of the following situations:

1) If he is alone, he receives all of the estate. Ex., if a deceased is only survived by a son, he takes everything.

2) If there are individuals with prescribed shares, they receive their shares, and he receives anything left after that (see the *ḥadīth* of Ibn ʿAbbās (ﷺ) last chapter). Ex., a man dies leaving a wife and a son. The wife receives ⅛ by "prescription", and the son receives the rest by "*taʿṣīb*".

3) If the prescribed shares cover all of the estate, the *ʿāṣib* drops from heirship. Ex., a woman dies leaving a husband, mother, maternal brother, and paternal uncle. The husband receives ½, the mother ⅓, and the maternal brother 1/6. This covers all of the estate, causing the paternal uncle to drop from heirship. There are exceptions to this rule:

a) The sons may not be overruled by the prescribed shares.

b) The father and grandfather turn from *ta'ṣīb* to prescription. The one of the them who inherits would then receive 1/6.

RANKS OF INDEPENDENT *TA'ṢĪB*

There are five ranks of independent *ta'ṣīb*:

Rank	Relationship
First	Sonship (sons, grandsons, and further down by mere male lineage)
Second	Fatherhood (father, grandfather, and further up by mere male lineage)
Third	Brotherhood (full and paternal brothers, and their sons to any depth, by mere male lineage)
Fourth	Unclehood (full-paternal and paternal-paternal uncles, and their sons to any depth, by mere male lineage)
Fifth	Emancipation. This is a one-way heirship, where the person who freed a slave, as well as his independent *'uṣbah*, become heirs of that slave.

Rule: The existence of a *'āṣib* of a higher rank cuts off the heirship for those of lower ranks. This is called "*ḥajb*". Ex., a father cuts off the uncle, and a son cuts off the brother.

Thus in a particular inheritance case, it is not permissible to have more than one *'āṣib* or a team of *'āṣib*s (*'āṣib* of the same rank).

The only exception to this rule is the second rank. If there is a son for the deceased, he causes the father or grandfather to turn from *ta'ṣīb* to prescription, receiving a share of 1/6.

Rule: If there are different *'āṣib*s of the same rank, the one of closer kinship to the deceased cuts off the others. Ex., a paternal brother cuts off a full brother's son.

Rule: If there are different *'āṣib*s of the same rank and same closeness to the deceased, the one of stronger relationship cuts off the others. Ex., a full brother cuts off a paternal brother.

TA'ṢĪB BY ASSOCIATION

This form of *ta'ṣīb* applies to female individuals as follows:

Relationship	**Condition**
Daughters	They have brothers.
Sons' daughters	They have brothers or cousins of equal rank (or lower ranking cousins in the absence of brothers and cousins).
Full sisters	The deceased is survived by full brothers.
Paternal sisters	The deceased is survived by paternal brothers.

In the above cases, the shares are divided such that a male receives twice as much as a female. Thus, the females turn from being heirs by prescription to being heirs by *ta'ṣīb*.

It should be noted that the males affecting this transformation for the female heirs maintain their positions of independent *ta'ṣīb*, with its rules as presented in the previous sub-section.

Ex., a man leaves a full brother, a paternal brother, and two paternal sisters. The paternal siblings do not receive anything because of the stronger relationship of the full brother to the deceased.

Ex., a man leaves a father, full brother, and three full sisters. The siblings do not receive anything because of the father's higher ranking.

JOINT *TA'ṢĪB*

Joint *ta'ṣīb* has two forms:

1) A full sister with daughters and/or sons' daughters. Ex., a man leaves a daughter and two full sisters. The daughter receives her

prescribed ½, and the two sisters divide the rest by *ta'ṣīb*.

2) A paternal sister with daughters and/or son's daughters. Ex., a man leaves two daughter and a paternal sister. The daughters receive their prescribed ⅔, and the sister receives the rest by *ta'ṣīb*.

It should be noted that the daughters or sons' daughters receive their prescriptions regardless of the presence of sisters.

Also, when a full sister has joint *ta'ṣīb*, she would cut off anyone who would otherwise be cut off by a full brother. The same is true in regard to paternal siblings.

Ḥajb

Ḥajb is a process whereby a person is cut off heirship — either entirely or partially. It derives from *ḥajaba*, meaning veiled or screened.

TOTAL *ḤAJB*

Total *ḥajb* occurs when the existence of some individuals entirely cuts off others from heirship. Ex., one dies leaving a father and full brother. The father's existence entirely cuts off the brother from heirship.

Total *ḥajb* is applicable to all heirs except the parents, immediate offspring, and spouses.

PARTIAL *ḤAJB*

Partial *ḥajb* occurs when the existence of some individuals reduces the shares of others in the inheritance. Partial *ḥajb* is applicable to all heirs without exception.

Ex., when one dies leaving a wife and a son. The wife's share is reduced from ¼ to ⅛ because of the son.

Ex., when one dies leaving only one son, he takes the entire estate. But if he left two sons, they would divide the estate in half, reducing the share of either one.

Calculating the Shares

There are some practical procedures that need to be established before one can preform complex calculations of inheritance. In this section, we address the most important of them.

CASE WINDOW

It is conventional to represent an inheritance case in a "window" as follows:

The individual heirs are listed in the central column, their proportions of the estate are listed in the left column. The right column lists the shares, which are the full numbers corresponding to the fractional portions. The box at the top provides the total of the individual shares, which is conventionally called "**the base**" of the case.

Conventionally, the left column is totally eliminated and replaced by the right one. But we will normally include it in this book for additional clarity.

Ex., a man dies leaving a wife, mother, and son. The case's window is as follows:

		24
⅛	Wife	3
1/6	Mother	4
R	Son	17

This means that the estate is divided into 24 equal shares, giving the son 17 shares, the mother 4, and the wife 3.

INCREASING THE BASE

Increasing the base, conventionally called "*'awal*", is required in cases where the total number of shares is more than the base. This can only happen when all of the heirs inherit by prescription. The base is then increased to reflect the correct total. Ex., a woman dies leaving a husband and two full sisters. The case's window is as follows:

		6
½	Husband	3
⅔	F. sister	2
	F. sister	2

Thus, the total fractional shares (½+ ⅔=7/6) are larger than 1, and the shares (3+2+2=7) are larger than the base (6). So, the base is changed to correct for this discrepancy, and the window is presented with the original base "strike out" and replaced by the new base as follows:

		~~6~~ 7
½	Husband	3
⅔	F. sister	2
	F. sister	2

Special Cases

THE TWO CASES OF 'UMAR

These are two special inheritance cases that have been briefly referenced earlier. Solving them in the conventional way seems to

result in a contradiction. They are as follows:

1. Husband, mother, and father.

		6
½	Husband	3
⅓	Mother	2
R	Father	1

2. Wife, mother, and father.

		12
¼	Wife	3
⅓	Mother	4
R	Father	5

This shows that in the first case, the mother receives twice as much as the father, and in the other she receives slightly less. This is in conflict with the general rule of inheritance stating that if there is a male and a female from the same rank, the male receives twice as much as the female. Because of this, ʿUmar (ﷺ) chose to give the mother ⅓ of the remainder after giving the spouses their shares. His opinion was approved by the *ṣaḥābah* and most of the *ʿulamāʾ* after them.

Thus, the above two cases become as follows:

		6
½	Husband	3
R	Mother	1
	Father	2

		4
¼	Wife	1
R	Mother	1
	Father	2

Maternal Brothers Cutting-off Full Brothers

This case applies when the deceased's survivors are a husband, a mother, two or more maternal brothers, and any number of full brothers. The normal rules of inheritance result in cutting off the full brothers, while giving ⅓ to the maternal brothers (left table)!

That appears to be unfair. The full brothers are the same as the maternal brothers in that they all have the same mother. In addition,

the full brothers are closer to the deceased in that they share with her the same father as well. Because of this, ʿUmar and many other scholars after him have agreed in this case to treat the full brothers as maternal brothers, so that they all share ⅓ of the estate (right table).

1. Before

		6
½	Husband	3
1/6	Mother	1
⅓	M. brother	1
	M. brother	1
R	F. brother	0
	F. brother	0

2. After

		12
½	Husband	6
1/6	Mother	2
⅓	M. brother	1
	M. brother	1
	F. brother	1
	F. brother	1

Grandfather with Siblings

If the deceased is survived by a paternal grandfather and siblings (paternal or full), the scholars (from the *ṣaḥābah* and after) differ into two opinions in regard to the grandfather's share:

a) The first opinion is to treat him exactly as the father, in which case he would cut off the siblings.

b) The second opinion is that, after giving any prescribed shares, the grandfather receives the maximum of: ⅓ or the remainder, equal share as the brothers, or 1/6 of the total estate.

We adopt the first opinion, which was taken by Abū Bakr (ﷺ) [1] in the presence of all of the *ṣaḥābah* (ﷺ) — without any objection from them.

1 In *Iʿlām ul-Muwaqqiʿīn*, Ibn ul-Qayyim (ﷺ) mentions twenty different reasons for favoring the first opinion.

The second is the opinion of ʿUmar and others among the *ṣaḥābah* (ﷺ). It leads to many complications that we will not discuss.

Second Distribution

Second distribution, or *radd*, is opposite to *ʿawal*. It occurs if the total prescribed shares are less than the full estate, leading to extra shares without heirs. Those extra shares are redistributed among the heirs by reducing the base of the case to the total of the original shares. There are two conditions for *radd*:

a) The prescribed shares do not cover the full estate.

b) No *ʿāṣib* is available to receive the residual estate.

Whereas *radd* can apply to anyone with a prescribed share, most of the scholars exclude the spouses, so that when the second distribution is made, the spouses maintain their original shares.

In the following, we will look at examples in the absence and presence of a spouse.

1. No Surviving Spouse

If the surviving heir is only one person, he takes the whole estate. Ex., if the deceased is only survived by a daughter, she receives half of the estate by prescription, and the other half by *radd*.

If the survivors are one class, the residual estate is divided equally among them. Ex., if the deceased is survived by two daughters, they receive ⅔ by prescription (⅓ each), and the remaining ⅓ is divided equally among them, so that each one receives a total of ½.

If the survivors are of different classes, the individual shares are added up, and the base is replaced by that sum, as in the following examples:

		~~6~~ 5
⅓	Mother	2
½	F. sister	3

		~~6~~ 5
1/6	Grandmother	1
½	F. sister	3
1/6	M. brother	1

		~~12~~ 8
½	Daughter	6
1/6	Son's daughter	1
	Son's daughter	1

		~~18~~ 9
1/6	Mother	3
⅓	M. brother	2
	M. brother	2
	M. brother	2

2. There Is a Surviving Spouse

If there is only one surviving heir (or class of heirs) beside the spouse, the spouse's share is given to the spouse, and the full remainder is given to the other heirs as a combination of *farḍ* (prescription) and *radd*. The following is an example:

		8
¼	Wife	2
3/4	F. sister	3
	F. sister	3

Note that the sisters would normally receive ⅔ by prescription, but received an extra (3/4 - ⅔ = 1/12) by *radd*.

If there are various classes of heirs with the spouse, the problem is divided into four steps (see following examples):

1. In the first step, the spouse is given his or her share, and the remaining shares R are given to the other heirs.

2. In the second step, *radd* is applied to the other heirs without the spouse.

3. In the third step, the shares of the other heirs after *radd* are multiplied by the remaining shares R, and then rationalized (reduced to the smallest numbers) if possible.

4. Finally, all shares are unified with the proper proportions and included in one column.

		8	~~6~~ 4	28	**32**
⅛	Wife	1			4
½	Daughter	7	3	21	21
1/6	Mother		1	7	7

		4	~~6~~ 3	3	**4**
¼	Wife	1			1
⅓	Mother	3	2	2	2
1/6	M. brother		1	1	1

		8	~~12~~ 6	6	8
¼	Wife	1			1
	Wife	1			1
⅓	M. brother	6	2	2	2
	M. brother		2	2	2
1/6	Grandmother		1	1	1
	Grandmother		1	1	1

Successive Deaths

Meaning and Procedure

Successive deaths, or *munāsakhah*, refers to situations where, after one dies, and before dividing the inheritance, one (or more) of the heirs dies. The procedure for solving an inheritance problem for such cases is as follows:

1. The problem regarding the first deceased (D_1) is solved.

2. The problem regarding the second deceased (D_2) is solved.

3. The share of (D_2) from the estate of (D_1) is determined.

4. The shares of the heirs of (D_2) are then proportionally calculated from the estate of (D_1).

Example

A man died leaving a wife, a daughter, a mother, and a full brother. Before dividing the inheritance, the daughter died leaving a son, in addition to the relatives left by her father. The solution to this problem is presented in the following table:

		24		6	24
⅛	Wife	3	Mother (1/6)	1	5
½	Daughter	12	Died		
1/6	Mother	4			4
R	F. brother	5			5
			Son (R)	5	10

The first column shows the shares of the heirs from the first deceased (base 24). The second column shows the heirs of the second deceased (mother and son). The third column shows the shares of the heirs from the second deceased. The last column presents all shares relative to the first deceased's estate.

The *munāsakhāt* cases can get very complicated, and the books of *farāʾiḍ* usually deal with them in depth and treat various special cases. All of that is beyond the scope of this book, and we feel that the above summary gives an adequate overview of this subject.

SIMULTANEOUS DEATHS

There are situations where two or more persons, who would normally inherit from each other, die together in an accident, such as a fire, drowning, explosion, and so on.

In such cases, if it is possible to determine the sequence of death, the problem reduces to that of successive deaths discussed above.

If it is not possible to determine the sequence, they would not inherit from each other.

Inheritance of a Fetus

Conditions for a Fetus's Heirship

When a person passes away, if the following conditions hold:

a) It is established that an embryo or a fetus exists in the womb of a woman related to the deceased,

b) The fetus's relationship to the deceased makes it a potential heir,

c) And the fetus is subsequently born alive,

This fetus is then a legal heir to the deceased.

In such cases it would be best to delay dividing the estate until after the fetus is delivered, because that would eliminate possible mistakes and doubts in regard to the division. However, if the other heirs insist on dividing the estate, the division may be done while reserving the maximum possible share that the fetus may possibly receive.

Possibilities for the Fetus

There are many possibilities for the fetus. A number of these may be eliminated in some pregnancies by applying modern technological methods, such as ultrasonic scanning.

The major possibilities are the following:

1. The fetus is born dead (D).
2. The fetus is born a living male (M).
3. The fetus is born a living female (F).
4. The fetus is born a living male/male twin (MM).
5. The fetus is born a living male/female twin (MF).
6. The fetus is born a living female/female twin (FF).

Other possibilities are rare and need not be considered.

POSSIBILITIES FOR THE OTHER HEIRS

In the presence of a fetus, the other heirs could be three types:

1. Heirs whose share is not affected by the outcome of the pregnancy. These heirs are given their full share.

2. Heirs who would drop out from heirship under some outcomes of the pregnancy. Those cannot receive anything before delivery.

3. Heirs whose share would vary depending on the outcome of the pregnancy. Those are given the minimum possible share. If, after the delivery, it is found that they deserved a higher share, the difference would then be given to them.

EXAMPLE

Let us take the example of a man who dies leaving a mother, a pregnant wife, and a paternal uncle. The various possibilities for the heirs' shares are presented in the following window:

	24	24	24	24	24	24	**24**
Mother	8	4	4	4	4	4	**4**
Wife	6	3	3	3	3	3	**3**
P. uncle	10	0	5	0	0	1	**0**
Fetus (child)	0	17	12	17	17	16	
	D	M	F	MM	MF	FF	**17**

This shows that, out of 24, the mother's possible shares are (8, 4), the wife's possible shares are (6, 3), and the uncle's possible shares are (10, 5, 1, 0). By giving each of these three individuals the minimum possible share, 17 of 24 shares will be reserved until the fetus is born (right column).

Note that the computations may be simplified by considering just

two possibilities for the fetus: FF and MM, because they allow it the highest share.

Missing Persons

Definition

In the subject of inheritance, a missing person is a person who has disappeared for an extended period of time, so that it is not known whether he is dead or alive.

The scholars differ as to what period of time should be allowed before deciding that a missing person is dead. The most reasonable view is that no general rule can be set, but a Muslim judge should decide on individual cases. Matters taken into consideration when making such a decision are the age of the missing person, the circumstances of his disappearance, the land in which he disappeared, and so on.

Inheritance of a Missing Person

A missing person's estate may not be divided among the heirs until it is known for sure that he is dead, or until the judge issues a decree considering him dead.

A Missing Heir

If the missing person is an heir of a deceased, the same conditions should be applied as in the previous case in order to consider him dead. If the judge sets a certain waiting period before such a consideration, the division of the estate should be postponed until that period passes.

If, during the waiting period, the other heirs demand division of the estate, a maximum possible share should be reserved for the missing person as in the case of pregnancy.

Hermaphrodites

Hermaphrodites are individuals who have both male and female sexual organs, or an organ that resembles neither.

In some cases, one of a hermaphrodite's organs will be ineffective, allowing the other organ to determine its gender. Other behavioral and medical considerations could also determine the stronger of the two genders. In terms of inheritance, the hermaphrodite is then considered to be of the stronger gender.

In cases where it is impossible to specify a hermaphrodite's gender, its share is then halfway between a male's and a female's.

Relatives Through Female Lineage

Definition

Relatives through female lineage (*thaw ul-arḥām*) are the relatives whose relationship to the deceased occurs through one or more female links, and who do not normally inherit from a deceased — neither by prescription nor by *ta'ṣīb*. They are eleven classes as follows:

C	Relatives	Source of Lineage	Origin
	O. of 𝒟	𝒟	O
1	O. of a son's 𝒟	Son's 𝒟	O
	And further down	…	O
	O. of a F. sister	F. sister	P
2	O. of a P. sister	P. sister	P
	O. of a M. sister	M. sister	M
	𝒟 of a F. brother	F. brother	P
3	𝒟 of a P. brother	P. brother	P
	𝒟 of a F. brother's son	F. brother's son	P

C	Relatives	Source of Lineage	Origin
	𝒟 of a P. brother's son	P. brother's son	P
4	O. of a M. brother	M. brother	M
5	M-P uncle, as well as father's and Gfather's	Father	P
6	All P. aunts (F, P, M), as well as father's or Gfather's	Father	P
7	𝒟 of a F-P uncle	F-P uncle	P
	𝒟 of a P-P uncle	P-P uncle	P
	𝒟 of a M-P uncle	M-P uncle	P
	𝒟 of a F-P uncle's son	F-P uncle's son	P
	𝒟 of a P-P uncle's son	P-P uncle's son	P
	𝒟 of a M-P uncle's son	M-P uncle's son	P
8	M. uncles and aunts (F, P, M)	Mother	M
	Father's M. uncles and aunts	Father's mother	P
	Mother's M. uncles and aunts	Mother's mother	M
9	M. non-inheriting Gfathers	Mother	M
	P. non-inheriting Gfathers	Father's mother	P
10	M. non-inheriting Gmothers	M. Gmother	M
	P. non-inheriting Gmothers	P. Gmother	P
11	Anyone who is related to the deceased through one of the above relatives	Nearer relative providing the lineage	

Symbols: F = full, P = paternal, M = maternal, O = offspring, 𝒟 = daughter, G = grand

INHERITANCE

The relatives through female lineage would inherit from a deceased only if he left neither *'uṣbah* nor prescription heirs (other than the spouses).

The scholars differ in regard to the order of inheritance of the above relatives. The opinion that we choose is that an existing maternal relative substitutes for the relative who was his or her link to the deceased.

For example, a full or paternal sister's offspring are related to the deceased, through their mother (the deceased's sister), through her father, who is the deceased's father. Thus we say that their relationship is through **paternal** lineage. On the other hand, the maternal uncles and aunts are related to the deceased through **maternal** lineage. As for the deceased's grandchildren, they are related to him through his children. Thus, theirs is an **offspring** lineage. All of this is provided in the "Origin" column of the above table.

The following rules should be applied in determining the inheritance of those relatives:

1. If there is only one relative, he or she takes the whole estate.

2. For relatives from the same origin, those who are nearer to the deceased or of stronger link to him cut off the further relatives.

3. Maternal uncles and maternal aunts substitute for the mother and receive her share.

4. Maternal-paternal uncles (father's maternal brothers) and paternal aunts substitute for the father and receive his share.

5. Other relatives from different origins substitute for the relatives through whom they connect to the deceased.

6. Males and females of the same class receive equal shares.

EXAMPLE

A man dies leaving a maternal uncle, two daughters of full sisters, and two daughters of maternal sisters. The solution is as follows:

Heir	Substituting for	~~6~~ 7
M. uncle	Mother (1/6)	1
F. sister's daughter	F. sister (⅓)	2
F. sister's daughter	F. sister (⅓)	2
M. sister's daughter	M. sister (1/6)	1
M. sister's daughter	M. sister (1/6)	1

CHAPTER 5

EXAMPLES AND COMPUTATIONS

All of the examples in this chapter are relatively simple. A few more complicated cases have been presented with the discussions of the previous chapter. More complex cases are beyond the scope of this book.

In the following examples, "R" means the remainder of the estate after giving all determined shares.

Simple Cases of Share Allocation

The following exercises are briefly annotated to help the reader understand share-allocation in simpler cases. This would provide a good basis for understanding more complex cases. The gender of the deceased, though unimportant, is sometimes determined by the spouses' gender.

Heir	Share	Notes
Wife	⅛	By prescription.
Mother	1/6	By prescription.
Daughter	½	By prescription.
P. uncle	R	By *taʿṣīb.*

Heir	Share	Notes
Wife	⅛	By prescription.
Daughter	½	By prescription.

Heir	Share	Notes
F. brother	R	By *ta'ṣīb*.
P. uncle	0	The brother cuts him off.

Heir	Share	Notes
Wife	¼	By prescription.
F. brother	2R/5	By *ta'ṣīb*.
F. brother	2R/5	By *ta'ṣīb*.
F. sister	R/5	By *ta'ṣīb*.
P. uncle	0	The brother cut him off.

Heir	Share	Notes
Daughter	½	By prescription.
Son's daughter	1/6	Remained of the ⅔.
F. sister	R/2	By *ta'ṣīb*.
F. sister	R/2	By *ta'ṣīb*.

Heir	Share	Notes
Wife	(⅛)/2	By prescription.
Wife	(⅛)/2	By prescription.
Daughter	½	By prescription.
Father	R	By *ta'ṣīb*.
F. brother	0	The father cuts him off.

Heir	**Share**	**Notes**
Husband	¼	By prescription.
Daughter	½	By prescription.
Father	R	1/6 by prescription, the rest by *taʿṣīb*.

Heir	**Share**	**Notes**
Husband	¼	By prescription.
Mother	1/6	By prescription.
Daughter	½	By prescription.
F. sister	R	By joint *taʿṣīb* (with the daughter).

Heir	**Share**	**Notes**
Husband	¼	By prescription.
Son's daughter	½	By prescription.
F. uncle's son	R	By *taʿṣīb*.

Heir	**Share**	**Notes**
Daughter	½	By prescription.
Emancipator's son	R	By *taʿṣīb*.

Heir	**Share**	**Notes**
Wife	⅛	By prescription.
Daughter	⅓	By prescription.
Daughter	⅓	By prescription.
Emancipator's F. brother	R	By *taʿṣīb*.

Heir	Share	Notes
Emancipator's son	All	By independent *taʿṣīb.*
Emancipator's daughter	0	She is *ʿāṣib* by association.

Simple Window Cases

Finding the base and individual shares from individual ratios is a process that sometimes requires a reasonable ability in dealing with numbers and performing arithmetic computations. Yet, we elect not to teach this to the readers, expecting them to be able to perform the computations by themselves or find some help in performing them.

	3
Son	1
Son	1
Son	1

		24
⅛	Wife	3
R	Son	14
	Daughter	7

	4
Son	2
Daughter	1
Daughter	1

		4
¼	Husband	1
R	Son	2
	Daughter	1

	5
F. brother	2
F. brother	2
F. sister	1

		6
1/6	Mother	1
1/6	M. brother	1
R	F. brother	4

		6
1/6	Mother	1
½	Daughter	3
R	P. brother	2

		8
⅛	Wife	1
½	Daughter	4
R	P. brother	3

		24
⅛	Wife	3
1/6	Mother	4
R	Son	17

		2
½	Husband	1
½	F. sister	1

		24
⅛	Wife	3
1/6	Mother	4
½	Daughter	12
R	F. brother	5

		6
½	Husband	3
⅓	Mother	2
R	F. brother	1

		24
⅛	Wife	3
1/6	Mother	4
½	Daughter	12
1/6	Son's daughter	4
R	F. brother	1

		72
⅛	Wife	9
	Daughter	16
⅔	Daughter	16
	Daughter	16
R	F. brother	15

		24
⅛	Wife	3
1/6	Father	4
R	Son	17
0	P. brother's son	0

		72
⅛	Wife	9
⅔	Daughter	16
	Daughter	16
	Daughter	16
1/6	Grandmother	12
R	F. brother	3

		9
⅔	Daughter	2
	Daughter	2
	Daughter	2
R	P-P uncle	3

		72
¼	Wife	9
	Wife	9
⅔	F. sister	16
	F. sister	16
	F. sister	16
R	P. brother	2
	P. brother	2
	P. brother	2

		16
¼	Wife	2
	Wife	2
R	F. brother	6
	F. sister	3
	F. sister	3

		9
⅔	Daughter	2
	Daughter	2
	Daughter	2
R	F. sister	1
	F. sister	1
	F. sister	1

		12
1/6	Mother	2
½	Daughter	6
1/6	Son's daughter	2
R	P. sister	1
	P. sister	1

		72
¼	Wife	9
	Wife	9
1/6	Grandmother	4
	Grandmother	4
	Grandmother	4
⅓	M. brother	8
	M. brother	8
	M. brother	8
R	P. Uncle	9
	P. Uncle	9

		84
¼	Husband	21
1/6	Mother	14
1/6	Father	14
R	Son	10
	Son	10
	Daughter	5
	Daughter	5
	Daughter	5
0	Grandfather	0
0	F. brother	0

Examples of *'Awal*

		~~6~~ 10
½	Husband	3
½	F. sister	3
1/6	P. sister	1
1/6	Mother	1
⅓	M. sister	1
	M. sister	1

		~~6~~ 9
½	Husband	3
⅔	P. sister	2
	P. sister	2
⅓	M. brother	1
	M. brother	1

		~~6~~ 7
½	Husband	3
½	F. sister	3
1/6	Grandmother	1

		~~12~~ 17
¼	Wife	3
⅔	P. sister	4
	P. sister	4
⅓	M. brother	2
	M. brother	2
1/6	Mother	2

		~~6~~ 8
½	Husband	3
⅔	F. sister	2
	F. sister	2
1/6	Grandmother	1

		~~12~~ 13
¼	Wife	3
⅔	P. sister	4
	P. sister	4
1/6	Mother	2

		~~12~~ 15
¼	Wife	3
⅔	F. sister	4
	F. sister	4
⅓	M. brother	2
	M. brother	2

		~~24~~ 27
⅛	Wife	3
⅔	Daughter	8
	Daughter	8
1/6	Mother	4
1/6	Father	4

APPENDIX I: WILL FORM

Based on the discussions in the previous chapters, we present on the following pages a complete, ready to fill, Will. We also include an affidavit for self-proving. One may photocopy the following forms for personal, non-commercial use.

General Remarks

1. This Will does not dispose of property that passes on the death of the Testator to a person by operation of law or by any contract. For example, the Will does not dispose of joint tenancy assets or the Testator's spouse's share of community property (unless a waiver is signed), and it does not normally apply to the Testator's retirement plan benefits.

2. This Will is not designed to reduce taxes. The tax results of the choices made in this Will should be discussed with a competent tax advisor.

3. The original of the Will should be kept in a secure location such as a safe deposit box at a bank, because only the signed original can be probated. A copy could be kept in the Testator's personal files. The Testator may wish to provide a copy to his or her lawyer, or possibly to the person named as Executor. However, before distributing such copies, the Testator should consider that it may become awkward to retrieve them later, should the Testator decide to modify the Will and/or change the designation of Executor.

4. In most state, the Will cannot be changed by adding, deleting, or modifying words on the face of the Will. Such changes are usually disregarded. When important changes are desired, it is recommended to make a new Will that expressly revokes the former one.

Signing Instructions

1. This Will is not valid unless it is signed by a Testator who is of "sound mind" and of the minimum age for the country or locality. In most of the United States, the minimum age is eighteen, but some states permit an individual below the minimum age to sign a will if the person is married or in the military. Being of "sound mind" requires that the Testator: (a) knows that he or she is signing a will, (b) knows the general nature and extent of his or her property, and (c) knows the relatives that would ordinarily be expected to share in the estate.

2. If the Testator is unable to sign due to physical disability, another person may sign on his or her behalf, in his or her presence, and at his or her express direction. However this document does not provide the necessary language for another person to sign for the Testator. For assistance with this procedure, a lawyer should be contacted.

3. The Will should be signed by the Testator in the presence of three DISINTERESTED adult witnesses and a notary public. Many states require only two witnesses, but the signature of a third witness provides some protection against the possibility that one of the witnesses' signature would be invalid for some reason. For example, a beneficiary under the Will should not be a witness. In most states, a beneficiary's signature does not necessarily invalidated the Will. However, if it is counted in order to satisfy the minimum number of witnesses, that "interested witness" may not receive a share of the estate any larger than if the Testator had died without a will.

4. All of the witnesses must watch the Testator sign this Will. The Testator should verbally declare that that document is intended to be his or her Last Will and Testament, but the witnesses need not read the Will or know its contents.

5. Each witness must sign his or her name with the Testator and the

other witnesses present. The witnesses should be satisfied that the Testator willingly signed the document as his or her free and voluntary act, and that the Testator was of full age and sound mind.

6. The Testator should initial on the bottom margin of each page of the Will. This is done to prevent the subsequent substitution of pages.

7. The date should be filled in appropriately, using the date on which the actual signing takes place. This step could become essential to the validity of the Will if, for instance, the Will revokes an earlier will.

Affidavit

1. The self-proving affidavit ("Proof of Will" in some states) is a document that should be attached to the end of the will, and that contains the Testator's acknowledgement and the affidavit of the witnesses, made before a person authorized to take and certify acknowledgements and administer oaths.

2. The affidavit states that the requisite formalities were observed in signing the Will.

3. Although the affidavit is not required for the legality of the Will, it can speed admission of the Will to probate after the death of the Testator, because it eliminates the need to have a witness appear at the probate proceeding to testify that the formalities in signing the Will were followed. The witnesses may not be available later when they are needed.

4. A self-proved Will may be admitted to probate without additional witnesses or affidavits, but it is still subject to contest on such grounds as undue influence, lack of testamentary capacity, or prior revocation.

5. Some states do not recognize the self-proving action. Therefore, the affidavit will be of no use in those states. However, including it will not invalidate the Will.

The Will

The Will follows on the next pages, followed by the affidavit. Other necessary forms are presented in the next appendix.

بسم الله الرحمن الرحيم

With the Name of Allāh the Most Merciful, the Bestower of Mercy

The Islāmic Will & Testament

TESTATOR	
Name [1]	
Birth Date	
City of Residence	
County	
State or Province	
Country	

I, ________________________________, being of sound mind and memory, do hereby revoke any and all of my former wills and amendments, and declare this my last Will and Testament.

PREAMBLE

The *Shahādah* — Testimony of Faith

أشهد أن لا إله إلاّ اللّه، وأشهد أن محمداً رسول اللّه.

Ash-hadu allā ilāha illallāh, wa ash-hadu anna Muḥammadan rasūlullāh.

I testify that there is no true deity except Allāh, and that Muḥammad (ﷺ) is Allāh's messenger.

I bear witness that Allāh is the Creator of the Heavens and Earth, and the God of Ādam, Nūḥ (Noah), Ibrāhīm, Mūsā (Moses), and ʿĪsā (Jesus). I bear witness that Allāh's promises are true and we will certainly meet with Him, Paradise is true, the Day of Judgement is coming without any doubt, and Allāh (exalted be He) will surely resurrect those in the graves.

Counsel to My Beloved Ones

The following is my counsel to my beloved spouse, children, relatives, friends, Muslim brothers and sisters, and all those who survive me:

- Strive to be true Muslims. Worship our Creator (ﷻ) as He alone is to be worshipped. Direct your absolute fear, hope, love, and submission to Him alone. I exhort you with what Ibrāhīm and Yaʿqūb exhorted their children:

1 Identify the Testator consistently and unequivocally throughout the will. Use the name normally used on legal documents.

﴿يَٰبَنِيَّ إِنَّ ٱللَّهَ ٱصْطَفَىٰ لَكُمُ ٱلدِّينَ، فَلَا تَمُوتُنَّ إِلَّا وَأَنتُم مُّسْلِمُونَ ۝﴾ البقرة ١٣٢

«O my children, Allāh has chosen for you this true religion, so do not die except in the faith of *Islām*.» [1]

- Revere Allāh and be conscious of Him. Be prepared for departure from this life. Take provision of good deeds. Keep the company of the scholars and righteous Muslims. Let your appearance and behavior reflect *Islām* in the best way. Strive to spread and establish the religion of *Islām*.
- Obey Allāh and His Messenger (peace be upon him). Hold fast to the Messenger's *Sunnah* (teachings), and the guidance of the *salaf* (righteous early Muslims). I exhort you with the Messenger Muḥammad's (ﷺ) last exhortation to his followers: **‹The prayer ... the prayer ...›** [2] So, maintain the prayers at their prescribed times.
- Always supplicate for me and ask Allāh to forgive me and have mercy on me.
- Avoid all acts of disobedience. Beware of innovations or altering any of the teachings of *Islām*. I disown before Allāh any act of disobedience or innovation that anyone might commit after me.

What to Do When Death Comes

(1) When death approaches me, have Muslims of knowledge and piety attend me, and let them remind me of maintaining good thoughts about my Lord, hoping for His mercy and forgiveness, and constantly uttering the *Shahādah*.

(2) Remove from my presence anything that dispels the angels of mercy, such as pictures or statues of humans and animals, dogs, bells, improperly attired women, music, smoking, etc.

(3) After my soul departs, I ordain the following to my family or those who are present:

- Close my eyes.
- Make good supplications for me (without raising their voice), invoking mercy and forgiveness for me.
- Take measures to quickly prepare me for the burial.
- Avoid announcing my death on loud speakers or in newspapers.
- Stop prompting me to say the *Shahādah* after my soul had departed from my body.
- Hasten to pay off my debts.

(4) No person dies before his appointed time. So, I ordain to my family the following:

- Do not preoccupy yourselves with my death, but instead make the proper preparations for your own.
- Maintain patience, self-composure, and submission to Allāh's decree.
- Do not raise your voice, wail, strike your cheeks, or call out with the calls of ignorance that reflect dissatisfaction with Allāh's decree.
- Women may not mourn [3] over me for more than three days, except for a widow who is

1 *Al-Baqarah* 2:132.

2 Recorded by Aḥmad and others from Umm Salamah, Anas, and Ibn ʿUmar (ﷺ). Verified to be authentic by al-Albānī (*Ṣaḥīḥ ul-Jāmiʿ* no. 3873).

3 Mourning is a display of sadness through abstaining from common show of pleasure and happiness.

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allowed to mourn over her husband for four months and ten days — until her *ʿiddah* [1] is completed.

FUNERAL

(5) I ordain that all of my funeral and burial procedures be performed by Muslims in full compliance with the *Islām*ic religion and the *Sunnah* of the Messenger (ﷺ). [2] Absolutely no non-*Islām*ic religious services or observances may be conducted upon my death, or on my body. In particular:

- Autopsy or embalmment may not be performed on my body – unless required by law.
- My burial may not be delayed for reasons *Islām*ically unjustifiable, such as awaiting a specific day, or the arrival of a particular person.
- My body should be washed three or five times (or more if needed) with soap and water, adding camphor or perfume on the last time.
- My body should be wrapped with three plain white perfumed sheets of cloth that are free of ornaments and other articles.
- I should be buried where I die; my body may not be transported over any unreasonable distance except as needed to reach the nearest Muslim cemetery.
- My funeral procession should be expedited.
- Women and incense burners may not accompany my funeral procession.
- During my funeral, voices may not be raised with reciting *Qurʾān*, uttering the *Shahādah*, or any supplications. Silence should be maintained, and those present should contemplate over the event and supplicate for me in their hearts.
- The funeral prayer upon me should be conducted outside the graveyard, and not among the graves.
- The largest possible number of Muslims should be invited to pray upon me, they should be arranged in a minimum of three rows, and they should be instructed to supplicate for me sincerely and extensively.

BURIAL AND THE GRAVE

(6) I ordain that:

- My grave should be dug in accordance with the specifications of the *Sunnah*.
- If possible, my grave should be made as a *laḥd*. [3]
- My body should be buried without a casket or any other encasement that separates the wrapped body from the surrounding soil. In the event that the local laws require casket encasement, I ordain that such encasement be of the simplest, most modest, and least expensive type.
- My body should be laid in the *laḥd* on the right side, with the face to the *Qiblah*, and my back supported with bricks.
- The men who lay down my body should say: *Bismillāhī, waʿalā millati Rasūlillāh* (with Allāh's name, and upon the religion of Allāh's Messenger ﷺ).
- No pillow may be placed under my head, no perfumes or decorations may be sprinkled in my grave, and no worldly possession may be buried with me.

---

1 Period of waiting before she can consider re-marrying.

2 This subject is covered extensively in our book, "Funerals, Regulations & Exhortations".

3 Near the bottom of the grave, in its wall facing *Qiblah* (the direction of Makkah in Arabia), a horizontal niche is made large enough for the body to be placed in it.

____
Testator's Initials

- Each one attending my burial should pour three handfuls of dust into the head end of my grave.
- After finishing my burial, the Muslims should be urged to stay for about fifteen minutes around my grave, supplicating for me quietly, and asking Allāh to grant me mercy, forgiveness, and firmness of words when questioned by the angels in the grave.

(7) I ordain that:
- No structure may be built over my grave.
- The soil over my grave should be raised no more that a hand span.
- No fence may be built around my grave.
- No writing, or symbols may be placed on my grave, except for a simple rock or inscription of my name to mark it so that other family members may later be buried in it.

VIOLATIONS OF *ISLĀM*

(8) I ordain that innovations, violations of *Islām*, and practices of the non-Muslims, should all be prevented at my funeral. In particular:
- No one may wear black as a sign of mourning.
- No pictures, decorations, flowers, wreaths, flags, or symbols may be included at any stage of my burial, nor be placed at the site of my grave.
- Recitation of *Qur'ān* (even *Sūrat ul-Fātiḥah* or *Yāsīn*) may not be done over my body during the funeral procedures.

CONDOLENCES

(9) I ordain that:
- The people should be instructed to express their condolences in proper *Islām*ic terms and manner.
- My family may not prepare food for the people who visit to comfort them, nor are they to hire or appoint men to recite *Qur'ān* for the occasion.
- Gatherings may not be arranged for the specific purpose of receiving condolences, especially those made on Fridays, on the third day, after one week, forty days, annually, etc.

I disown before Allāh, the Most High, every action or saying that conflicts with the *Sunnah* of the noble Messenger (ﷺ).

Finally, I ask all my relatives, friends and all others, whether they choose to believe as I believed or not, to honor my right to these beliefs. I ask them to honor this document, and not to obstruct it or change it in any way. Rather, let them see that I am buried as I have indicated above, and let my estate be divided as I indicate below.

ARTICLE I - FUNERAL AND BURIAL PROCEDURES

(1) I hereby nominate and appoint one of the following, in this sequence, as dictated by their availability and willingness, to execute all foregoing and necessary provisions for my proper *Islām*ic funeral and burial.

____
Testator's Initials

FUNERAL ADMINISTRATOR

	First Choice	Second Choice	Third Choice
Name			Nearest Muslim *Imām*
Address			
Tel.			

(2) In the event of legal difficulties in administrating my funeral, I direct my Administrator to seek counsel from learned Muslim men or reputable *Islām*ic organizations.

ARTICLE II - EXECUTOR AND GUARDIAN

Executor

(1) I hereby nominate and appoint one of the following, taken in this sequence, as dictated by their availability and willingness, to be the sole Executor [1] of this Will and Testament.

WILL EXECUTOR [2]

	First Choice	Second Choice	Third Choice
Name			Nearest Muslim *Imām*
Address			
Tel.			

(2) I give my Executor, herein named, power to settle any claim for or against my estate, and power to sell any property, real, personal or mixed, in which I have an interest.

(3) I direct that no bond or surety for any bond be required for my Executor in the performance of his/her duties.

(4) It is my will that no other action shall be had in the court in the administration of my estate than to prove and record this will, and to return an inventory and appraisement of my estate and list of claims.

1 This word should be substituted everywhere with "Executrix" in the event that the person executing the will is female.

2 It is recommended that the Executor be a young, practicing Muslim. One may appoint a spouse, child, or friend.

______ Testator's Initials

(5) I hereby nominate and appoint one of the following, taken in the same sequence as dictated by their availability and willingness, and so long as said person remains an upright and practicing Muslim of sound mind and judgement, to be the guardian of the persons and estates of such of my children as shall be minors at and after my death, during their minority:

GUARDIAN

	First Choice	Second Choice	Third Choice
Name			Nearest Muslim *Imām*
Address			
Tel.			

ARTICLE III - MY ASSETS AND LIABILITIES

(1) I own or am owed amounts and items, debts, trusts, businesses, properties, bank accounts, cash, etc. — as is detailed in the attached sheets. [1]

(2) I owe amounts and items, debts, trusts, etc. — as is detailed in the attached sheets. [2]

ARTICLE IV - SETTLEMENT OF DEBTS AND EXPENSES

(1) I direct that all trust properties in my possession be returned to their rightful owners. I further direct that my Executor first applies the assets of my estate to the payment of all my legal debts, including such expenses incurred by my last illness and burial, as well as the expenses of the administration of my estate. I direct said Executor to pay any outstanding obligations that are binding on me before Allāh, including unpaid *zakāh* (obligatory *Islām*ic charity), vows, *kaffārāt* (expiating *Islām*ic obligations), and unperformed *Ḥajj* (pilgrimage to Makkah).

(2) I direct that all inheritance, estate and succession taxes (including interest and penalties thereon), payable by reason of my death, shall be paid out of, and be charged generally against, the principal of my residuary estate without reimbursement from any person; except that this provision shall not be construed as a waiver of any right which my Executor has, by law or otherwise, to claim reimbursement for any such taxes which become payable on account of property, if any, over which I have a power of appointment.

1 Use the forms provided in Appendix II of this book.

2 Use the forms provided in Appendix II of this book.

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ARTICLE V - CONTRIBUTIONS AND TRANSFERS

(1) I bequeath the following items and amounts as testamentary transfers and/or charitable contributions to the named persons and organizations.

Name of Person or Organization	Item	Value
Total	%	

(2) The foregoing contributions shall be taken from the remainder of my estate after execution of Article IV, such that their total does not exceed one third of said remainder. Otherwise, each of the foregoing contributions shall be proportionally reduced to make the total within the one-third limit.

ARTICLE VI - DISTRIBUTION OF THE RESIDUARY ESTATE

(1) I direct and bequeath all of my residuary estate, after the execution of ARTICLEs IV and V, as well as any portion of my estate disclaimed or refused by any of the legatees named or referred to in this Will and Testament, only to my Muslim heirs whose relationship to me, whether ascending or descending, has occurred, at each and every stage, through blood relationship or lawful marriage. The distribution of my residuary estate shall be made strictly in accordance with the *Islām*ic Law of inheritance, as is summarized in the table attached herewith.

(2) I direct that no part of my residuary estate shall be inherited by a non-Muslim relative, except legatees specifically named in ARTICLE V.

(3) Should I die as a result of murder, I direct that the adjudged murderer, principal or accessory in the murder, shall be disqualified from receiving any part or share of my estate.

(4) I direct that no part of my estate shall be given to relatives whose relationship to me, whether ascending or descending, has only occurred through non-*Islām*ic marriage, illicit contact, or adoption, except: (a) legatees specifically named in ARTICLE V, or (b) individuals who are related

Testator's Initials

to me through their biological mother. I further direct that a relationship based on a well-established *Islāmic* marriage shall be accepted — whether or not the marriage had been confirmed with the legal authorities.

(5) I direct that any fetus, conceived before my death, whose relationship to me qualifies it to be a legal heir according to *Islām*, shall be considered an heir, provided that it is born alive, and within a reasonable term [1] after my death. In such a case, the distribution of my residuary estate after the execution of ARTICLEs IV and V shall be delayed until after the birth of the fetus. If some of the other heirs are in urgent financial need, a disbursement may be extended to them not to exceed their' minimum possible share after taking the fetus's share into consideration.

(6) I direct that any residuary estate, after the execution of ARTICLEs IV and V and sections 1 through 5 of ARTICLE VI, to the following tax-exempt *Islāmic* organization:

____

ARTICLE VII - SEPARABILITY

I direct and ordain that if any part of this last Will and Testament is determined invalid by a court of competent jurisdiction, the other parts shall remain valid and enforceable.

CONCLUSION

This is my will, which I have laid out.

﴿فَمَن بَدَّلَهُۥ بَعۡدَمَا سَمِعَهُۥ فَإِنَّمَآ إِثۡمُهُۥ عَلَى ٱلَّذِينَ يُبَدِّلُونَهُۥٓۚ إِنَّ ٱللَّهَ سَمِيعٌ عَلِيمٞ ۝﴾ البقرة ١٨١

> **«Whoever changes the bequest after hearing it, the sin will be upon those who make the change. Truly, Allāh is Hearing and Knowing.»** [*Al-Baqarah* 2:181]

I ask Allāh to guide me and all the Muslims and grant us righteousness, a good end, and death upon the testimony of *Islām*.

1 A "reasonable period" is normally nine months, but varies among women. Thus, medical advise may need to be consulted in doubtful cases.

____
Testator's Initials

Table of Shares

The following table provides the "raw" shares that are allocated to various individuals according to the *Islāmic* law of inheritance. These, together with the portions allotted to specific male individuals such as sons and brothers (see following notes), provide most of the information needed to determine the exact shares. In some cases, additional fine-tuning may be needed as explained in the notes. In order for an individual to receive a particular share, the required conditions for him (or her) are marked with "y" (yes) or "n" (no). Ex., for a daughter to receive ½ of the estate, U and not(PA) must hold: only daughter, no brothers. All of the conditions marked for a specific individual must hold simultaneously. The only exception is when the mother gets 1/6, as indicated below. Additional non-common conditions for some individuals are also indicated.

x/y	Individual	Conditions									Additional Conditions & Notes
		U	BH	MOH	PA	HBH	FS	Fa	Mo	2MS	
½	Husband		n								
	𝒟	y			n						
	Son's 𝒟	y			n	n					
	F. sister	y	n	n	n						
	P. sister	y	n	n	n		n				
¼	Husband		y								
	Wives		n								
⅛	Wives		y								
⅔	𝒟s	n			n						
	Sons' 𝒟s	n			n	n					
	F. sisters	n	n	n	n						
	P. sisters	n	n	n	n		n				
⅓	Mother		n							n	
	M. siblings	n	n	n							
1/6	Father		y								
	Mother		y							y	Only one of the 2 conditions must hold
	P. Gfather		y					n			Replaces father in his absence
	Gmothers								n		Replace mother in her absence
	Sons' 𝒟s				n						A higher ranking female must simultaneously get ½.
	P. sisters				n						
	M. sibling	y	n	n							

Testator's Initials

Legend: F = full; P = paternal; M = maternal; O = offspring; 𝒟 = daughter; G = grand; n = no; y = yes
U = unique (no other heirs in the same class of relationship to the deceased); BH = the deceased has branch-heirs (offspring
MOH = the deceased has male origin-heirs (father; P. Gfathers); PA = the heir has paternal associates (brothers or cousi
of equal class); HBH = the heir has higher-ranking branch-heirs; FS = the deceased has full siblings; 2MS = the deceas
has two or more siblings (half or full); Fa = the father survives the deceased; Mo = the mother survives the deceased.

NOTES AND GUIDELINES

1. The share for 2 or more of the same class (wives, daughters, etc.) is equally divided amor them.

2. After giving the prescribed shares to the individuals who deserve them, the remainder is give to the nearest male relative (or relatives of the same class). The order of priority is: offsprin; fathers, brothers, paternal uncles. Thus, in a case involving 3 daughters, mother, grandson, ar brother, the daughters get ⅔, the mother 1/6, and the grandson receives the rest (1/6).

3. If there are brothers and sisters in the same class, the shares in the above table cease to hol for them, and a female's share becomes half a male's. Thus, in the case of 3 daughters, mothe son, and brother, the mother gets 1/6, and the rest is divided among the 4 children, so that eac daughter gets 1/6 and the son gets 1/3.

4. If the heirs all have prescribed shares according to the above table (no male heir to receive tl rest), but their shares do not add up to 1, the shares are redistributed with a new denominat so that they add up to 1. Thus, in a case involving 3 daughters and mother, the mother gets 1/ and the daughters 2/3, with a total of 5/6. Taking 5 as the new denominator, the mother ge 1/5, and the daughters 4/5 (4/15 each).

   On the other hand, if the case is that of 3 daughters, mother, and husband, the daughte get 2/3, the mother 1/6, and the husband 1/4, with a total of 13/12. Taking 13 as the ne denominator, the shares become 8/13, 2/13, and 3/13 respectively.

5. A special case is when a deceased is survived by a mother, a father and a spouse. After givir the spouse her or his share (¼ or ½), the mother gets ⅓ of the remainder, and the father ge the ⅔.

6. For maternal siblings, both males and females receive equal shares (of the ⅓).

7. In the absence of all relatives of the foregoing table, as well as all paternal male heirs, tl female-linked relatives turn into heirs, with each one substituting for the originator of his (her link. Thus, a sister's daughter takes the position of sister, etc.

;ignatures

'estator. In witness whereof, I have hereunto set my hand this day, in the presence of the witnesses ereinafter named, who attest the same at my request.

Day / Month / Year	Testator's Signature

pouse. Realizing that some localities adopt the Community Property Rule, whereat one-half of the residual state is considered property of the surviving spouse, I hereby decline such an allocation, declare my full onsent to my spouse's last will and testament, and resign my right to challenge it.

Spouse's Name	Spouse's Signature

Vitnesses.[1] We hereby certify that the above instrument was, on the date thereof, signed, published, and eclared by the Testator, ______________________________ as his/her last Will and Testament, in our resence, who at his/her request and in his/her presence, and in the presence of each other, have hereunto ubscribed our names as witnesses thereto[2], believing said Testator at the time of so signing to be of sound iind and memory.

	Name and Information	Signature
1		
2	Name and Information	Signature
3	Name and Information	Signature

'his document is made in three copies, all the same and all original. One copy is with me, one is eposited with the Executor, and one with ______________________________________.

It is recommended to choose witnesses who are young, familiar with the Testator, and unlikely to move away soon. Signatures should be done in the presence of the witnesses and a notary public. The signatures should be original on all copies. The Testator should also initial each page of the will in the designated place at the bottom.

AFFIDAVIT

Before me, on this day, personally appeared the undersigned, known to me to be the Testator and the witnesses, respectively, whose names are signed to the foregoing instrument. All of these persons were duly sworn by me. The Testator declared to me and to the witnesses, in my presence, that the foregoing instrument is the Testator's Will and that the Testator willingly signed and executed such instrument in the presence of the witnesses, as the Testator's free and voluntary act for the purposes expressed in the instrument.

Each of the witnesses declared in the presence and hearing of the Testator that the forgoing instrument was executed and acknowledged by the Testator as the Testator's Will in their presence and that they, in the Testator's presence, hearing, and sight, and at the Testator's request, and in the presence of each other, did subscribe their names to the instrument as attesting witnesses on the date of the instrument, and that to the best of their knowledge, the Testator was eighteen years of age or older, of sound mind, under no constraint or undue influence, and the witnesses were of adult age and otherwise competent to be witnesses.

Testator's Name and Information	Signature
Witness's Name and Information	Signature
Witness's Name and Information	Signature
Witness's Name and Information	Signature

The above individuals subscribed, sworn to, and acknowledged before me,

Day / Month / Year	Notary Public

APPENDIX II: ADDITIONAL FORMS

On the following pages, we have additional forms that should be appended to the will as needed. They contain information about liabilities, assets, and other matters that are subject to frequent changes.

One is advised to make copies of these forms and put them in his will folder, making sure to keep them up-to-date and attach to them any required supportive documents. One may wish to reserve a separate sheet for each of the frequent creditors or debtors. References could be made to account books, safety boxes, etc.

DEBTS & LIABILITIES OWED BY ME

In the following table, I include the debts and liabilities that I owe to various individuals and institutions. A positive amount indicates a debt owed by me, a negative amount indicates a payment made by me.

Date	Creditor	Amount	Notes & Signature

Testator's Name ________________________ Testator's Initials ______

DEBTS OWED TO ME

In the following table, I include the debts that are owed to me by various individuals and institutions. A positive amount indicates a debt owed to me, a negative amount indicates a payment made to me.

Date	Debtor	Amount	Notes & Signature

Testator's Name ______________________ Testator's Initials ______

ASSETS THAT I OWN

In the following table, I include items, trusts, businesses, properties, etc., that I own or are owed to me.

Item & Description	Location	Approx. Value

Testator's Name ______________________ Testator's Initials ______

LIABILITIES & TRUSTS THAT I OWE TO OTHERS

In the following table, I include items, trusts, businesses, properties, bank accounts, etc., that I owe or hold for others.

Item & Description	Location	Approx. Value

Testator's Name ______________________ Testator's Initials ______

PROMISES AND AGREEMENTS

In the following table, I include the promises or agreements between me and various individuals or institutions.

Date	Other Party's Name	Promise or Agreement	Notes & Signature

Testator's Name ______________________ Testator's Initials ______

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Al-Waṣiyyat ush-Sharʿiyyah (The *Islām*ic Will), Manṣūr Anwar Muḥmūd ʿAshmāwī, Dār Ibn Ḥazm, Beirut, 1993.

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Tashīl ul-Farā'iḍ (Simplifying the Rules of Inheritance), Muḥammad Bin Ṣāliḥ al-ʿUthaymīn, Mu'assasat ur-Risālah, Beirut, 1403 (1983).

GENERAL

Aḥkām ul-Janā'izi wa-Bidaʿuhā (the Regulations of Funerals, and Innovations Thereof), Muḥammad Nāṣir ud-Dīn il-Albānī, Maktabat ul-Maʿārif, Riyadh, 1993.

Al-Jāmiʿu li-Aḥkām il-Qur'ān, al-Qurṭibī.

Mā Yanfaʿ ul-Muslima baʿda Wafātih (That Which Benefits a Muslim after His Death), Ibrāhīm Bin Muḥammad, Maktabat uṣ-Ṣaḥābah, Ṭanṭā, Egypt, 1987.

Tafsīr ul-Qurʿān il-ʿAẓīm, Ibn Kathīr.

ARABIC TERMS

A number of Arabic terms are frequently used in *Islām*ic discussions, and seem to constitute a basic vocabulary that needs to be available to the readers of most books on *Islām*. We attempt to provide such terms, together with their definitions, in the following "Glossary" section. Other terms pertinent to the current book are included in the "Index" section, together with a page-reference indicating where they are defined in this book.

A: Glossary of Common Terms

Term	Definition
Al-Fātiḥah	The first chapter of the *Qur'ān*.
Āmīn	Means, "O Allāh, answer my supplication."
Anṣār	"The Supporters": the residents of al-Madīnah who supported the Prophet (ﷺ) and the *Muhājirūn*.
A<u>th</u>ān	Call to the prayer.
Āyah	A *Qur'ān*ic phrase approximately equal to one sentence, but sometimes longer or shorter than that; plural: *āyāt*.
Āyāt	See "*āyah*".
Bid'ah	Innovation in the creed or in acts of worship.
Da'wah	Call or mission.
Dīn	Religion. It is usually used in reference to the religion of *Islām*.
Dīnār	A valuable old currency that was made of gold.

Term	**Definition**
Dirham	A low-value old currency that was made of silver or copper.
Du'ā'	Supplication.
Fajr	Dawn. It usually applies to the first obligatory prayer of the day, whose time extends from dawn until sunrise.
Farḍ	Obligation.
Farḍ Kifāyah	A communal obligation; if some Muslims perform it, the obligation is considered fulfilled by all; and if none does, all Muslims are considered sinful.
Farḍ 'Ayn	An individual obligation, i.e., an obligation that each individual must fulfill.
Fatāwā	See "*fatwā*".
Fatāwī	See "*fatwā*".
Fatwā	A religious verdict; plural: *fatāwā* or *fatāwī*.
Fiqh	The ability to understand and derive conclusions from the available evidence. It is often applied to the subject of "*Islām*ic jurisprudence" that deals with the practical regulations in *Islām*.
Fitnah	Trial, test, or affliction.
Ghayb	The world beyond our senses or perception.
Ghusl	A ritual bath required after intercourse, ejaculation, or after a women becomes clean from her menses.
Ḥadīth	Reports of the Prophet's sayings, actions, and approvals. We use *ḥadīth* (plural *ḥadīths*) to indicate individual report(s), and *Ḥadīth* with upper case Ḥ to indicate the subject of *Ḥadīth* specialty.

Term	Definition
Ḥajj	Pilgrimage to Makkah.
Ḥalāl	Permissible.
Ḥalqah	A circle or ring. It normally refers to a study circle.
Ḥarām	Prohibited.
Ḥasan	Good or acceptable. This is usually mentioned when indicating the degree of authenticity of some reports.
Hijrah	Migration. It usually refers to migration from Makkah to al-Madīnah.
Imām	A leader or distinguished *Islām*ic scholar.
Īmān	Belief or conviction.
Ijtihād	A scholarly and serious research of a matter of the *sharī'ah* attempting thereby to reach a correct ruling.
Isnād	Chain of narrators of a *ḥadīth*.
Jāhiliyyah	The era of extreme ignorance (*jahl*) and disbelief that preceded the advent of the Prophet Muḥammad (ﷺ).
Jamā'ah	A Muslim congregation or gathering. *Al-Jamā'ah* (the *Jamā'ah*) refers to the original community of the *ṣaḥābah* and their true followers through the times.
Janāzah	A funeral or a deceased's prepared body.
Jannah	The gardens of paradise.
Jihād	Striving or fighting for Allāh's cause.
Jinn	An indivisible creation that Allāh created from fire and smoke, and to which belongs Satan. It is sometimes translated as "demons".
Jumu'ah	Friday. It also applies to the Friday prayer.

Term	Definition
Kāfir	See "*kufr*".
Khamr	Alcoholic beverages.
Kufr	Disbelief or rejection of faith. One who practices it is a *kāfir*.
Khuṭbah	Speech or sermon, normally delivered in the *masjid*.
Maghrib	Sunset. It usually applies to the fourth obligatory prayer of the day, whose time extends from sunset until the disappearance of the red light from the horizon.
Makrūh	Disapproved in *Islām*.
Maḥram	A person who is closely related to another in such a way as to permanently prohibit them from marrying each other. This relationship results from blood, suckling, or marriage ties. A woman's *maḥram*s are: her father, grandfather, son, grandson, brother, immediate uncle (from the mother's or father's side), father in law, son in law, foster son, foster brother, etc. Examples of non-*maḥram*s: cousins (from both sides), step brothers, brothers in law, etc.
Masjid	A place designated for *sujūd*. It usually refers to a mosque.
Ma<u>th</u>hab	Way or approach. It usually refers to one of the four *Islām*ic schools of *fiqh* established by the Four *Imām*s: Abū Ḥanīfah an-Nu'mān Bin Thābit, Mālik Bin Anas, Muḥammad Bin Idrīs ash-Shāfi'ī, and Aḥmad Bin Ḥanbal — May Allāh bestow His mercy on them all.
Muhājirūn	The *ṣaḥābah* who made *Hijrah* from Makkah to al-Madīnah.

Term	Definition
Muṣallā	A place designated for *ṣalāh*. Most commonly, it applies to the grounds where the prayers of *'īd* and *janāzah* are performed.
Mushrik	See "*shirk*".
Qadar	Allāh's decree and measure.
Qiblah	The direction of al-Ka'bah in Makkah.
Qudusī	Holy. A *qudusī ḥadīth* is a *ḥadīth* that the Prophet (ﷺ) relates from his Lord (ﷻ).
Rak'ah	See "*rukū'*".
Ramaḍān	The month of fasting. It is the ninth month of the *Islām*ic lunar calendar.
Rukū'	The act of bowing in the prayer. From this, *rak'ah*, refers to a full unit of prayer because it contains only one *rukū'*.
Ṣadaqah	Charity.
Ṣaḥābah	The Prophet's companions; singular *ṣaḥābī*.
Salaf	The early righteous pioneers and scholars of *Islām*—the *ṣaḥābah* and their true followers.
Ṣalāh	The prayer.
Salām	Peace. It also means the greeting with peace (*as-salāmu 'alaykum*) among the Muslims.
Shahādah	Testimony; it commonly applies to the testimony of *Islām* that, "there is no true deity but Allāh, and Muḥammad is Allāh's Messenger." It is also often applied to the most truthful form of physical testimony, which is martyrdom for Allāh's (ﷻ) cause. A person thus killed is called a *shahīd*.

Term	**Definition**
Shahīd	See "*shahādah*". Feminine: *Shahīdah.*
Shar'	Law or legislation. It is usually used specifically in reference to the *Islām*ic Law. The same applies to *Sharī'ah.*
Sharī'ah	See "*shar'*".
Shirk	Polytheism, ascribing divinity to other than Allāh, or joining partners with Him in worship. A pagan or a person who practices *shirk* is a *mushrik.*
Ṣiyām	Fasting.
Sujūd	The act of prostration in the prayer.
Sunnah	Way, guidance, teachings, etc.
Sūrah	*Qur'ān*ic chapter.
Tābi'ūn	The students of the *ṣaḥābah*. Singular: *tābi'ī.*
Tafsīr	*Qur'ān*ic commentaries and interpretations.
Takbīr	Saying "*Allāhu Akbar* — Allāh is the greatest."
Taqwā	Fearing Allāh and revering him.
Taslīm	Saying *salām.*
Thikr	Remembering Allāh and mentioning Him.
Ummah	Community or nation.
Wājib	Obligatory or required.
Wuḍū'	Ablution for the prayer. It consists of rinsing the mouth, blowing the nose, washing the face, washing the forearms to the elbows, wiping over the head (including the ears), and washing the feet up to the ankles.

Term	Definition
Zakāh	Obligatory charity.
Zinā	Adultery or fornication.
Ẓuhr	Noon. It usually applies to the second obligatory prayer of the day, whose time extends from the sun's crossing the zenith until the time when the shadows are as long as the objects.
ʻAbd	Devoted servant and worshipper; plural: *ʻibād*.
ʻĀlim	A scholar or learned man; plural: *ʻulamāʼ*.
ʻAṣr	After noon. It usually applies to the third obligatory prayer of the day, whose time extends from the time when the shadows are as long as the objects until sunset.
ʻIbād	See "*ʻabd*".
ʻĪd	A day of celebration in *Islām*. There are two annual *ʻīd*s (*al-fiṭr* and *al-Aḍḥā*) and one weekly *ʻīd* (the day of *Jumuʻah*).
ʻIshāʼ	Night. It usually applies to the fifth and last obligatory prayer of the day, whose time extends from the disappearance of the red light from the horizon until the middle of the night (which is half way between sunset and dawn).
ʻUlamāʼ	See "*ʻālim*".

B: Index